UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF OHIO

EASTERN DIVISION

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IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION	Case No. 1:17-MD-2804
APPLIES TO ALL CASES	Hon. Dan A. Polster
Case No. 1:17-MD-2804	

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January 30, 2019

HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

Videotaped deposition of JEFFREY S. PEACOCK, held at 200 Vesey Street, New York, New York, commencing at 9:16 a.m., on the above date, before Marie Foley, a Registered Merit Reporter, Certified Realtime Reporter and Notary Public.

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Janine Downing, Henry Schein
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- - -

TRANSCRIPT INDEX

PAGE

- - -

- - -

E X H I B I T S

- - -

Page 13

- - -

9:16 a.m.

New York, New York

- - -

THE VIDEOGRAPHER: We are now on the record.

My name is Henry Marte. I'm a videographer with Golkow Litigation Services.

Today's date is January 30th, 2019, and the time is 9:16 a.m.

This videotaped deposition is being held at 200 Vesey Street, New York, New York in the matter of National Prescription Opiate Litigation.

The deponent today is Jeffrey Peacock.

All appearances are noted on the stenographic record.

Will the court reporter please administer the oath to the witness.

- - -

Page 14

JEFFREY S. PEACOCK, the Witness herein, having been first duly sworn by a Notary Public in and of the State of New York, was examined and testified as follows:

EXAMINATION BY

MR. MIGLIORI:

Q. Good morning, sir.

A. Hi.

Q. My name is Don Migliori. I'm from a law firm called Motley Rice, and they represent various plaintiffs in this litigation.

It's good to meet you.

Have you ever had your deposition taken before?

A. No, never.

Q. Okay. Let me give you some basics, and then we'll get started.

I'm going to ask you questions throughout the day. The court reporter is going to take down my questions. If they're clear and understandable, I'd ask that you respond to them. If you don't

Page 15

understand the question, I'd ask you to let me know.

I would ask you to give me some time between my question and your answer such that, one, the court reporter can take it down, and, two, your counsel, if he chooses, would have an opportunity to put an objection down on the record.

Okay?

A. Mm-hm.

Q. Second rule is you have to actually say "yes" or "no."

A. Yes.

Q. And it's a lot easier for the court reporter to type that --

A. Yes.

Q. -- than nods or gestures or grunts.

If you answer a question, I'll assume that you've understood it.

Is that a fair ground rule for the day?

A. Sure.

Q. Okay.

Page 16

A. Yes.

Q. And if you need to take a break, I'm happy to do that. This isn't, hopefully not -- I don't think this will take a full day. But to the extent we need a break, I just ask that we finish the question that we're on before we go into a break. And I'm happy to accommodate anything that you need.

Before we get started, do you have questions of me or what we're about to do?

A. No. I'm clear. Thank you.

MR. McDONALD: Are you ready to start?

MR. MIGLIORI: Yeah.

MR. McDONALD: Let me just -- we're not getting realtime.

Are you?

MR. MIGLIORI: I am.

(Pause.)

BY MR. MIGLIORI:

Q. Okay. Sir, could you give the jury your full name and your address,

Page 17

please?

A. My name is Jeffrey Scott Peacock. I live at 2911 Chester Street, Oceanside, New York 11572.

Q. Okay. And, what is your job title?

A. I'm the vice-president of Global Quality Assurance and Regulatory Affairs.

Q. And the name of your employer is?

A. Henry Schein.

Q. How long have you worked there?

A. Five years six months, six-and-a-half months.

Q. Okay. We'll go through some of the specifics of your background and training.

I want to start with Exhibit Number 1.

(Peacock Exhibit 1, Plaintiffs' Notice of Oral Videotaped Deposition of Jeff Peacock As Fact Witness For Defendant Henry Schein, was marked for identification, as of this date.)

Page 18

BY MR. MIGLIORI:
Q. I'm going to pass these across the table. There are two copies. The one with the sticker is for you. The one that's not is for your counsel.
In front of you is what's been marked as Exhibit 1. It's a notice of today's deposition.
Were you provided this before today?
A. I left my glasses in my coat.
MR. McDONALD: They're in your jacket?
THE WITNESS: They're in my jacket pocket. Sorry.
MR. MIGLIORI: Not a problem. We will need those today.
THE VIDEOGRAPHER: Should we go off the record?
MR. MIGLIORI: It doesn't matter.
(Pause.)
THE VIDEOGRAPHER: Actually, can we go off the record for just one

Page 19

second? I think that phone might have disconnected on us.
MR. MIGLIORI: Okay.
THE VIDEOGRAPHER: The time is 9:21 a.m.
Going off the record.
(Recess taken.)
THE VIDEOGRAPHER: We are back on the record.
The time is 9:23 a.m.
BY MR. MIGLIORI:
Q. Okay. Had you seen, now that we're situated, had you seen this, the notice, before?
A. Yes, sir.
Q. When were you first advised of this deposition?
A. I don't remember the exact date. I was notified by our corporate attorney that I was called.
Q. Was it within the past few months?
A. Yes, weeks.
Q. And, did you meet with anybody

Page 20

in preparation for this deposition?
A. Yes.
Q. And, when did you first meet?
A. Yesterday.
Q. That was the first time you met?
A. Yes.
Q. Prior to that meeting, were you provided any materials to review in anticipation of the meeting?
A. No, sir.
Q. Have you reviewed documents in preparation for today?
A. Only yesterday.
Q. How long was your meeting yesterday?
A. Six hours.
Q. And, who was present?
A. Mr. McDonald, the next gentleman, and Margie.
Q. Okay.
A. I'm sorry.
Q. Scott?
A. Scott.
Q. That's okay. He is a gentleman.

Page 21

And the three of you met and they provided documents, or did you also bring with you documents?
A. I brought in a couple documents.
Q. Okay. And, were these documents you reviewed documents that were kept in the ordinary course of business at Henry Schein?
A. Yes, sir.
Q. Were you asked to produce documents from your own files months ago in response to discovery requests in this case?
A. Absolutely.
Q. And, were the documents you brought with you provided at that time?
A. Yes.
Q. So, there was nothing new that you brought to the table yesterday?
A. No, sir.
Q. Okay. Thank you.
And, in reviewing the documents, was there anything that you reviewed that was new to you that you hadn't seen

Page 22

before, don't believe was in your custody and control?
A. There was some documents prior to my joining Henry Schein in 2013.
Q. And, did you review any testimony in this case?
A. No.
Q. Do you know Shaun Abreu?
A. I do.
Q. And you know that Shaun Abreu testified in this case?
A. I do.
Q. Did you talk to Shaun about his testimony?
A. I talked to him, but he didn't disclose anything about the testimony. He said it was a long day.
Q. Okay. And, did you ever see or review any of the written transcript of his testimony?
A. No, sir.
Q. Did anyone tell you the substance of his testimony?
A. No, sir.

Page 23

Q. Other than the documents that counsel showed you and the documents you brought to the meeting yesterday, is there anything else that you reviewed in anticipation or preparation for --
A. No, sir.
MR. McDONALD: Just be sure to let him finish his question.
THE WITNESS: I'm sorry.
MR. McDONALD: That's okay.
BY MR. MIGLIORI:
Q. Okay. Let me go over your background a little bit first, and then we'll get into Henry Schein.
I don't -- do you have a current curriculum vitae?
A. I do.
Q. Is that something you provided to counsel?
A. I don't recall.
MR. MIGLIORI: Okay. I don't have a copy.
And, counsel, if you do and have produced it, I don't -- I don't have

Page 24

it.
MR. McDONALD: He didn't.
MR. MIGLIORI: Okay. Well, we'll go from here and see what happens.
(Peacock Exhibit 2, LinkedIn profile of Jeff Peacock, was marked for identification, as of this date.)
BY MR. MIGLIORI:
Q. Best I can do is what you put online on LinkedIn.
I show you Exhibit Number 2. It's obviously very superficial, but let's go over it.
Could you go over your educational background?
A. Sure.
Q. So, you went to Cornell University undergraduate?
A. Correct.
Q. And graduated in 1979?
A. Yes.
Q. With a bachelor of science degree in animal physiology?

Page 25

A. Correct.
Q. And then it looks like you had a four-year master's program in medical biology and immunology?
A. It was at night, so it took four years to get, but I was working at the time.
Q. And, what is LIU Post?
A. Long Island University.
Q. Okay.
A. C.W. Post campus.
Q. Got you.
When you graduated in 1990, you were -- you said you were working at the time?
A. Yes, sir.
Q. And, I'm looking at this. It seems that you worked at Memorial Sloan-Kettering Cancer Center from 1985 to 1986?
A. That's correct.
Q. And, what were you doing there?
A. I was the manager of the epidermal growth factor receptor

Page 26

laboratory that was run by Dr. John Mendelsohn, and we were doing research on monoclonal antibodies for cancer therapies, and a product that we worked on actually became a drug called Erbitux.
Q. Okay.
A. Which is sold by Bristol-Meyers.
Q. Do you think the Israelis have found a cure?
A. I hope so.
Q. Sounds like they're optimistic.
That's the kind of work you were doing though?
A. Yes.
Q. Research on medications?
A. Yeah.
I was -- prior to that, I had two other jobs. I was working in research doing, you know, monoclonal antibody development, looking at, you know, different bacterial infections, means to detect them with monoclonal antibodies, and that was the --
Q. Were you doing any work at this

Page 27

time on controlled substances?
A. No.
Q. After that, there's a reference to EZEM.
What is that?
A. It was a pharmaceutical medical device company.
Q. And, what did you do for them?
A. I did a lot for them. So, I had multiple -- multiple jobs. I came as a kind of an immunochemist when I was working in their research laboratory. We started the department there called Enteric Products where we commercialized the protein from the Baylor College of Medicine, and it was for detection of a bacteria called Helicobacter pylori. So we had kind of spun off part of the business, and we ran an incubator out at Stony Brook University. Relatively small staff which we over the years built up when but we started to commercialize this product, put it through the FDA, and, you know, sold it to major laboratories like

Page 28

Quest Laboratories, Quest Diagnostics.
Q. So, is it fair to say you were heavily involved in the research and development and regulatory process for new drugs?
A. This was a diagnostic, so it wasn't a drug.
Q. Okay. It was a --
A. Yeah, it was a diagnostic.
After that, so, I was there from, you know, '86 to about 2000. There was a new president brought on, and I was brought in to the corporate fold where I did -- ran clinical trials, quality control, quality assurance.
Q. That started in 2000?
A. That started in 2000.
Q. Same company though?
A. Same company.
Q. And that company is based in Lake Success, New York?
A. It's closed now. We were purchased in 2008.
Q. By?

Page 29

A. By Bracco Diagnostics. It's the next company on the list.
And I was --
Q. Before we leave EZEM though.
At any time during your 21 years there, did you work in any way with controlled substances or opioids?
A. No.
Q. The company was bought out in 2008.
What did your responsibilities become?
What was the name of the company?
A. The company was Bracco Diagnostics.
Q. Okay. And, what, if any, additional responsibilities did you have?
A. So, in that role, I took on the VP of operations, and in that role I was overseeing the manufacturing of some of the contract manufactured pharmaceuticals, as well as some of the -- we -- EZEM made barium products, barium sulphate for

Page 30

swallows, enemas, things like that. And then in that role, I took over the manufacturing responsibilities, 'cause of my prior experience, of the facility that we had in Montreal, as well as several contract manufacturers throughout the U.S.

Q. Okay. And --

A. Both in devices and drugs.

I'm sorry.

Q. That was going to be my next question.

On the drug side, did you have any direct involvement with agencies, FDA, DEA?

A. Yes.

Q. What kind of involvement did you have?

A. Well, we were audited fairly regularly. There was a -- you know, with the device and the drug business, it was almost every year we were being audited.

Q. Okay. Any controlled substances?

A. No, sir.

Page 31

Q. You stayed there for how long?

A. Five years.

Q. And then what happened?

A. Then I was recruited to come to Schein. The prince -- the Bracco Diagnostics was based out of Princeton. I was commuting from Long Island to Princeton and did that for five years, and then I was recruited and I came to Henry Schein.

Q. Who recruited you?

A. I don't know the name of the recruiting firm. It's a Long Island company. APR, something like that.

I'm sorry I don't know the name.

Q. And, into what position did they recruit you?

A. I was the VP of Quality Assurance and Regulatory Affairs.

MR. MIGLIORI: I'm going to show you what I'm just going to mark as Exhibit 3.

(Peacock Exhibit 3, Conflict of Interest Statement, Offer Letter, Bates No. HSI-MDL-00632419 to 00632520, was marked for identification, as of this date.)

Page 32

BY MR. MIGLIORI:

Q. This is the personnel file that we received for you. I'm not going to go through the whole thing. We may return to it later. I just want to direct your attention on Exhibit Number 3, if you look at the bottom right corner there are numbers and the first number is -- the first letters are HSI. That's referring to Henry Schein Incorporated. And then it says MDL.

If you turn to the page that has the last three numbers '425. This appears to be the signature page of a letter offer to you and acceptance of the position.

Is that your signature?

A. Yes, sir.

Q. Okay. So you accepted the position on May 20th, 2013 to start on July 1st of 2013, and the job title was vice-president Regulatory Affairs based in

Page 33

Melville, New York reporting to Len David, the senior vice-president and chief compliance officer.

Is that the job that you accepted?

A. That's correct.

Q. And, what did you understand the job to be?

A. The job was responsible for the Quality Assurance and Regulatory Affairs for the company for North America.

Q. Okay. And, is this the first time that you would have been involved in any way with responsibilities relative to controlled substances?

A. That's correct.

Q. Had you had any training, prior to accepting this position in 2013, in regulatory compliance or obligations for controlled substances?

A. No, sir.

Q. How did you get educated, or how did you educate yourself to understand your responsibilities in your new position

Page 34

relative to controlled substances at Henry Schein?
A. So, there was initially training with the team. So we -- we would meet and go over what the processes were. Generally it was on-the-job training.
Q. Okay. And, who were the folks, when you got there, that had the knowledge about the Controlled Substances Act and the obligations of Henry Schein relative to controlled substances that you learned from on the job?
A. Yeah. So, primarily would be Sergio Tejeda, who had been with the company for a long time prior to my coming on.
Q. Okay. And, we'll go through, but he now reports to you, right?
A. Correct.
Q. Okay. Who else?
A. And his team. So there were people that had been, you know, reviewers, verifiers, et cetera, for a number of years.

Page 35

Q. And, as I understand the structure of Henry Schein, there is the Regulatory Department and then there is a Verifications Department. Those are two separate departments, but they have some overlap in some of their responsibilities.
Is that a fair statement?
A. Yeah. It's a shared process, right, so.
Q. But Verifications, for example, didn't report to Regulatory?
A. No.
Q. That is they are their own department, and to the extent that there was overlap, there was collaboration between those two departments?
A. Yes.
Q. And, at no point in this process did you have oversight obligations or responsibilities towards Shaun Abreu or those that worked for him in Verifications, correct?
A. That is correct.
Q. Are you aware that Shaun Abreu

Page 36

was presented by your company as the person with most knowledge about the suspicious order monitoring programs and the obligations of Henry Schein for controlled substances?
A. I was not aware, no.
Q. Is it, in your view, in your experience, in your on-the-job training, your perception that compliance with the Controlled Substances Act is more of a responsibility of the Verifications Department or of the Regulatory Affairs Department?
A. Could you repeat the question?
Q. Sure.
Compliance and reporting to the DEA, is that a function within Henry Schein of the Regulatory Affairs Department or the Verifications Department?
MR. McDONALD: Object to the form.
A. My opinion is it's a shared responsibility. So, there's functions

Page 37

that they do. There is , you know, processes within the team in the electronic reporting, the ARCOS data, et cetera, but then, you know, other additional advising and oversight is with my group.
Q. Okay. Is it fair to say then that the primary responsibility to assure compliance with DEA regulations is with the Regulatory Department, but Verification plays a role in that process?
MR. McDONALD: Object to the form.
A. Yeah, I -- I -- I would agree.
MR. MIGLIORI: Okay. Let me show you Exhibit Number 4.
(Peacock Exhibit 4, Power Point presentation Global Quality Assurance, Regulatory Affairs and Trade Compliance December 9th, 2016 Jeff Peacock, was marked for identification, as of this date.)
BY MR. MIGLIORI:
Q. This just helps me understand a

Page 38

little bit more about the structure.
From time to time, we'll see a document that doesn't have a date on it, but I can tell you what the date is based on information that's in the metadata.
So, I'll represent to you that this is from December 9th of 2016. It's a Power Point presentation. The Bates number ends on the first page in '509.
And, if you look at the second page, it's the cover of the Power Point is "Global Quality Assurance, Regulatory Affairs and Trade Compliance, December 9th, 2016, Jeff Peacock."
That's you, correct?
A. That is correct.
Q. Do you remember giving this presentation?
A. Yes, sir.
Q. And, who had you given it to?
A. My immediate boss.
Q. Which was who at the time?
A. Walter Siegel.
Q. And, what was his title?

Page 39

A. He's the chief counsel, senior vice-president, chief counsel.
Q. Okay. And, what was the purpose of the presentation?
A. I was just taking on, I don't know exactly the dates, but I had been expanded and promoted for global responsibility. So this was one of the kind of overviews that I did.
Q. Okay. So, at some point, you went from regular -- the vice-president of Regulatory Affairs to the vice-president of Global Quality Assurance and Regulatory Affairs?
A. Yes.
Q. And this would have been some time approximately right after that transition in 2016?
A. I would assume. I --
Q. Okay.
A. -- can't be sure, but --
MR. McDONALD: And, to be clear, Don, looking at your question, he previously -- so we have a clear

Page 40

record, because Tejeda was vice-president of Quality Assurance and Regulatory Affairs and then it changed to Global, still Quality Assurance and Regulatory Affairs.
MR. MIGLIORI: Did I --
MR. McDONALD: You skipped Quality Assurance in his initial title.
MR. MIGLIORI: In his initial, fair enough.
A. Actually, he's correct because when I was hired, it was Regulatory Affairs, and I split the department into Quality Assurance and Regulatory Affairs. That was one of the functions that I did.
Q. Wait. Can you repeat that again, he's correct? No, just the "he's correct" part.
A. Yeah, you're correct.
No, but the offer letter was basically for Regulatory Affairs.
Q. Right.
A. And then over the course of, you

Page 41

know, a year or so, I broke the department into Quality Assurance and Regulatory Affairs.
Q. I think that's why I pulled that out of my head because we just pulled that out of the letter.
So, you went from the vice-president of Regulatory Affairs and then it became the vice-president of global -- I'm sorry, of Quality Assurance and Regulatory Affairs.
Does trade compliance --
A. That was rolled in, yeah.
Q. Rolled into it as well?
A. Yeah.
Q. And then at some point, you -- they expanded that to not just domestic U.S. responsibilities, but worldwide responsibilities?
A. Global, correct.
Q. And this would have been a presentation now of what's going on both domestically and worldwide?
A. Yes.

Page 42

Q. And you were making this presentation to your immediate report, your supervision, correct?
A. Mm-hm.
Q. And, when you say compliance -- you said, sounded like a lawyer. I forget the counsel or something.
Who did you give this to, this presentation?
A. It was chief counsel.
Q. Chief counsel.
So, is that within the Legal Department?
A. Yep.
Q. All right. On the third page of this, it talks about the -- the division and the mission statement.
And, is that something that pre-existed, or did you come up with the mission statement?
A. It's changed, but I came up with a new one, but this is what was there, I believe.
Q. Okay. And part of the mission

Page 43

statement is to support the continuous success of Henry Schein businesses and operations worldwide while insuring ongoing compliance with all applicable regulatory, quality and trade compliance requirements.
That component involves the compliance with DEA and Controlled Substances Act, correct?
A. Yes, sir.
Q. It also, to the extent relevant, would apply to the FDA?
A. Yes, sir.
Q. And all of those functions and that quality assurance and that compliance, that fell under your direct responsibility, correct?
A. Yes, sir.
Q. If you turn to the next page, there's a flowchart that lists you on top as vice-president, and then on the U.S. side, which is all we're going to talk about, it has four different columns there.

Page 44

Are they broken up by responsibilities?
A. Yes, sir.
Q. What are they?
Let's start with Sergio Tejeda.
A. So, he's Regulatory Affairs, director RA there.
Q. Okay. And under him there is Gary, at least at the time, Tiam?
A. Tiamsic.
Q. Tiamsic.
A. Andi Tiller.
Q. And then there was an open manager position?
A. Correct.
Q. And this would have been the Regulatory Affairs Department in Melville or both in Melville and I believe Denver?
Where is the other facility, or the other --
A. We have several facilities. So, there's one in Denver, Pennsylvania, in Jacksonville, Florida, Bastian, Virginia, Indianapolis and Reno, Nevada.

Page 45

Q. Okay. And they all have regulatory responsibilities, all of those that you just listed?
A. Could you be more specific?
Q. Are there regulatory affairs folks in each of those locations?
I'm trying to work off this flowchart and just understand the structure of the department.
A. No, there's not.
Q. Okay. So, are there any folks within Regulatory Affairs, other than those listed in this chart?
A. So, I'm a little confused. I apologize.
So, if you go back to are there any? There's some of the DEA auditors were in Indy, Jacksonville and Denver. So we had three of them there.
Q. Okay. You had -- so, you had internal DEA auditors?
A. Yeah, our internal DEA team.
Q. Right.
A. Would perform, you know, your

Page 46

customer end audits, site audits.
Q. And, is there a person -- is there a managing person of that team, of the internal --
A. So, Sergio's the ultimate director of that team. There was a manager who was left -- who had left, and then there was a new manager who was brought in.
Q. Okay. Who is the manager that left?
A. Her name was Tina Steffanie-Oak.
Q. Okay. And, who's the one that replaced Tina Steffanie-Oak?
A. His name is Frank O'Regan.
Q. Okay. And, what is the responsibility of the internal DEA team, audit team?
A. So, they work with Verifications when there is any Know Your Customer Due Diligence that needs to be done. They review the files. They review the doctors. They review the questionnaires. They speak to them on occasion, and they

Page 47

may visit the site on occasion.
Q. Okay. What roles do they have relative to audits? Is it their own auditing?
When you say DEA audits, are they also responsible for external audits?
A. Yes, of customers.
Q. Okay. Just of customers.
A. They support the managing director of the facilities, the distribution centers.
Q. Right.
A. So, the operations people, they would support the DEA audits when they come to audit us.
Q. Got you.
A. These people would be support for questions, et cetera.
Q. And, so, this department, this -- this department is under Sergio Tejeda within Regulatory Affairs, correct?
A. Correct.
Q. And, from time to time, if Verifications couldn't clear a pended or

Page 48

suspicious order, they would seek review from this department?
A. Correct.
Q. And there were times throughout the course, at least of your experience, that those pended orders were cleared and released within the Verifications Department, correct?
A. That is correct.
Q. That is it didn't involve Regulatory Affairs at all?
A. Yes.
Q. Is that still true today? Is that still part of the process?
A. Yes.
MR. MIGLIORI: Is that our phone?
MR. McDONALD: No. It's next door. They just fixed it.
MR. MIGLIORI: Okay.
BY MR. MIGLIORI:
Q. And, can you remember, in the time that you've been there from 2013 to the present, any other people on this team

Page 49

just by name, on the -- the internal --
A. You want the name of the people?
Q. Yeah. Just other folks that worked with Tina or Frank.
A. Beverly Butcher, Liam Schemer.
Q. Anyone else that you can think of?
A. There was Pete Schmidt, Nick DeLucia, Glenn Lonnquist. And I believe that's it.
Q. Okay. Did this group meet regularly?
A. Yes.
Q. And, you said they were spread out all over the country, or were they all in Melville?
A. All over -- well, most of them were on -- on their -- different sites.
Q. Okay. And, so, how often would they meet? Was there a regular meeting for them?
A. There was a regularly once-a-month meeting and, you know, there was a lot of interface within the team.

Page 50

Q. And, were there minutes of those meetings?
A. Yes.
Q. And, were those minutes --
A. Not all. I can't say all, but certainly some for sure.
Q. And those minutes would be shared with Sergio, or would Sergio be at these meetings as well?
A. Sergio was likely at those meetings.
Q. Okay. And then would you get a monthly report of those meetings?
A. Sometimes I was present at those meetings.
Q. Okay. Were they webinars? Did you link in visually? Was it a phone conference?
A. Phone conference.
Q. Okay. And, was somebody's responsibility to document any of the decisions or concerns or events of the month?
A. I can't say specifically. I

Page 51

mean, I -- you know, the minutes I think drove what --
Q. Okay.
A. -- occurred.
Q. And, if you were to ask to see the minutes, where would you go? On what database, what system?
Or would you just call Lydia?
A. I probably would have received them.
Q. Okay. And, so, you would have somewhere in your files a file of the monthly meetings of the DEA Audit Team, correct?
A. Mm-hm.
Q. Yes?
A. Yes.
Q. All right. And that's something that's kept in the ordinary course of your business?
A. Yes.
Q. All right. Any other teams underneath Regulatory Affairs besides this DEA Audit Team?

Page 52

A. So, the teams that are listed here, the Andi Tiller's team, she runs the facility in Bastian, Virginia. Gary Tiamsic's team runs what we call the Major Projects.
Q. Okay.
A. So, in 2013, there were two legislations, the Drug Quality Security Act for the FDA for serialization of pharmaceutical products, as well as unique device identification for barcoding and identification of medical devices for counterfeiting, et cetera. So, those are two large initiatives, as you might imagine, and he's the project manager running those projects.
Q. When you say "running the project," is it implementation? Is it lobbying? How -- what role did Gary have?
A. Well, it's a multifunctional. So, you know, we have disciplines and operations. We have IT, et cetera.
So, during the meetings with the vendors sourcing out the solutions that we

Page 53

have put in place, discussing negotiated with those vendors for pricing, ultimately managing a budget with myself. You know, I had sign-off authority on it. Writing minutes to the meetings. Making sure that we were on timelines. Being able to report how the progress of the, you know, projects are going 'cause there are certain timelines based on a class of medical devices or who's, you know, the manufacturer or distributors for pharmaceuticals, there were different dates that need to occur. So we wanted to make sure that we had, you know, process in place to meet those deadlines.
Q. Did Major Projects track state-specific obligations in regulations; for example reporting requirements to Boards of Pharmacy and the like?
A. That would be within the Regulatory under Sergio's DEA team.
These were company-wide big projects.
Q. Sure. Okay.

Page 54

So, none of them were truly just specific to controlled substances or to a particular drug? It was more universal projects?

A. Yeah. So, I mean, he does other things as well. So, you know, it's part of just running projects, but not the controlled substance part.

Q. Okay. The person for controlled substances is Sergio Tejeda?

A. Correct.

Q. All right. Did this group, Major Projects, have regular meetings and minutes similar to the DEA team?

A. Yes.

Q. All right. And those would be kept in the same --

A. Yes.

Q. -- course as the other minutes that you have?

A. Yes.

Q. Okay. And then, I'm sorry I missed it, but what did Andi Tiller run?

A. She runs the facility in

Page 55

Bastian, Virginia. And, you know, it's one of our distribution centers, but it's also a pharmaceutical repackaging. So it's kind of a misnomer, repackaging, but we take packs of ten, we don't open the content, et cetera. We just individualize them for, you know, doctors that only want one out of a package of ten.

Q. So that has its own set of controls and --

A. It's an FDA-regulated process.

Q. And, does Andi have any responsibilities relative to controlled substances or opiates?

A. There are controlled substances in our facility.

Q. Okay. So, that process of repackaging could actually be for opioids as well?

A. No, I don't believe that it's true.

Q. All right. But it's just for other classes?

A. Yes.

Page 56

Q. All right. They met regularly, had their own minutes, reported to you as well?

There's a "did" in there that I didn't say.

Is that a group that had a regular meeting, or the repackaging was just simply a function that was managed out of that?

A. So, they reported on a monthly basis on what the progress was and what they had done, any issues like that. They have management review meetings, which, you know, one's happening today.

Q. More operational report?

A. Yeah.

Q. And then the open manager position DEA, what role is that? And who filled it?

A. The person who filled it was Frank O'Regan, as I mentioned before. He had retired from the DEA, and he had joined us to lead the team that does the Know Your Customer surveillance.

Page 57

Q. Do you know when he joined to fill that position?

And again, just for orientation, this presentation was created in December 9th of 2016.

A. I don't have the date.

I'm sorry.

Q. But it would be after that --

A. Yes.

Q. -- if my date is correct?

A. Correct.

Q. All right. And, the Know Your Customer components, at that point, you had become aware that, prior to your hiring into Henry Schein, there was a project to get current with the Know Your Customer Due Diligence files at the company, correct?

MR. McDONALD: Object to the form.

A. Yeah, I'm not quite clear.

Prior to my --

Q. There was an observation made, earlier before your arrival at Henry

Page 58

Schein, that 60 percent of the files had no Know Your Customer Due Diligence letters in them.

You were made aware of that when you got there, correct?

A. Maybe not immediately, but at some point, yes.

Q. And there was a concerted effort, in fact you report on it, to catch up and catch up quick, correct?

A. Yes.

Q. And you've been involved in that process and you show in some of your reporting the efficacy of actually completing that process and doing deeper dives into certain prescribers, correct?

MR. McDONALD: Object to the form.

A. Two parts to your question. I'm not sure.

I apologize.

Q. Sure.

You do report on the progress and expediency or urgency of the project

Page 59

to get current to your supervisors, correct?

A. That is correct.

Q. And, in that reporting, you also talk about the importance of that process and the ability it had given you to do more on-site visits and inspections, correct?

MR. McDONALD: Object to the form.

BY MR. MIGLIORI:

Q. I believe you called it a risk-driven process. That is you prioritized the catch-up project on the Know Your Customer files by what seemed to be the greatest risks first down to the lesser risks.

A. That is correct.

Q. All right.

A. We always take a risk-based approach, as we need to.

Q. And you also reported on doing more on-site inspections in the period of time that you were catching up, correct?

Page 60

A. I'd have to see the document. I don't recall.

I'm sorry.

Q. All right. We'll show it to you. It's at the end of this. But let me finish this before I leave the document.

So, in terms of the regulatory affairs and quality assurance, this team here is the team, this open position was ultimately taken by Frank O'Regan.

Does he still hold that position?

A. No, he does not.

Q. Did somebody replace him?

A. Somebody is starting on Monday.

Q. Okay. And, when did Frank no longer have this position?

A. December 20th.

Q. Of this -- of 2018?

A. Yes, sir.

Q. And, why did he -- did he leave?

A. He did leave.

Q. And, why did he leave?

A. So, he had applied through the

Page 61

state for a -- he took a test about four years ago for a new position, 'cause he had been in the DEA, and four years after it, he had worked for us probably year-and-a-half or two years, I don't remember exactly the time frame, they called him and said you got the job. And he basically wrestled with it and took it.

Q. Okay. And that's with the State of New York?

A. Yes. Nassau County DA, actually.

Q. And, so, is he continuing to work with compliance --

A. Yes.

Q. -- and controlled substances?

A. That's correct.

Q. Is Andi Tiller still in this position?

A. Yes.

Q. How about Gary Tiamsic?

A. Yes.

Q. And Sergio still is as well?

A. Yes.

Page 62

Q. All right. Anyone else on the chart in the U.S.A. side that has regulatory affairs responsibilities? I know that we're broken down by quality assurance and the like, but is there any overlap in these other -- these three other?
A. So, it depends on the definition of regulatory affairs.
Q. I'm primarily focused on DEA and controlled substances.
A. Right. Just want to be clear.
Q. No, I appreciate that.
A. No.
Q. Okay. So, in my world that we're dealing with in this case, the opioid litigation, the -- the suspicious order monitoring programs, the compliance with DEA regulations relative to the distribution and sale of opioids, that would be covered by these four managers and director and the folks that report to them?
A. Correct.

Page 63

Q. All right. On page 5, that's your international crew?
A. Yes.
Q. All right. Page 6 Regulatory Affairs and Quality Assurance. Again this has you on top with Lydia.
Is it fair to say that Lydia's probably equal in the importance --
A. In importance to me?
More so, actually.
Q. Okay.
A. Make sure she gets a copy.
Q. I know how that works. That works the same way in my office.
Tell me about the breakdown here.
Who is Liz Ernst?
A. Liz Ernst is the director at the time, now VP of Regulatory and Quality at Animal Health.
Q. Okay. And, so, is this for research and development? Is this for regulatory compliance? What roles would that column have relative to the things

Page 64

that I'm -- that I'm asking you about, DEA and opioids, if any?
A. Well, they're a distributor. So they do have controlled substances.
Q. Okay. So, where are they?
When you say they're a distributor. Are they a distributor of controlled substances to the animal health business?
A. The veterinary business, yes.
Q. Okay. And, so, do they have their own set of rules or their own compliance people?
A. Yes.
Q. And, who is the compliance person within the animal health division?
A. Liz Ernst is the lead.
Q. Okay. And, do they report to you?
A. No.
Q. Do they have separate reporting requirements? I mean, do they -- do any of their --
MR. MIGLIORI: Strike that.

Page 65

Q. The chart says they report to you.
Is it just to report that they're being compliant with their own regulatory scheme? Do you have any involvement at all in their practice?
A. I'm going to clarify that. It's a dotted line to me.
Q. Okay.
A. It's not a direct line.
Q. Okay. That's helpful.
A. So, we are like advisors, consultants, and we, you know --
Q. Got you.
A. -- surveil and try to help them as necessary.
Q. Same would be true for the Ortho Organizers?
A. Yes. For all.
Q. And the BioHorizons?
A. Mm-hm.
Q. And, what is Smart Pack?
A. It's an animal feed company. They have horse feed.

Page 66

Q. You have a solid line to Kathy Strange at Ace Surgical.
Do you have DEA regulatory responsibilities over that division?
A. Yes, sir.
Q. And, what are they?
A. So, they were a distributor of controlled substances. And my team would help Sergio, and his team would help audit them and advise them, et cetera.
Q. Do they have their own sales force at Ace Surgical?
A. They do.
Q. And, so, the sales force at Ace Surgical would, of course, be accountable to you for complying with regulatory obligations for the sale and distribution of controlled substances, correct?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. That is some of the functions of -- of the Regulatory Affairs is -- involves the sales and marketing of

Page 67

opioids as well, correct?
MR. McDONALD: Object to the form.
A. In terms of process, yes.
Q. Okay. There's a specific reference to, a little later in the deck, but whatever functions they have at Ace Surgical relative to opioids, the sale of opioids, distribution of opioids, and their compliance with regulations, that is ultimately the responsibility of your department, correct?
A. Primarily it's the responsibility of Kathy Strange, who is -- was the senior manager. She was ultimately promoted to vice-president and ran this, but she had the direct line to me for reporting, yes.
Q. Okay.
A. They managed their system themselves, so they didn't -- you know, Sergio and his team would provide guidance. And, so, again, it's audits, things like that.

Page 68

Q. And, how were their customers different from Schein's customers, if they are?
A. I couldn't speak on that.
Q. Okay. Page 8 you've got licensure database.
I just want to ask you briefly where -- what do you call this database?
A. Facility licensure database.
Q. It's actually called that?
A. So, our Henry Schein facilities and the licensure that each facility has.
Q. Okay.
A. Globally.
Q. All right. So, these are your own licenses, and this would include DEA licensing?
A. All the facilities that have them, yes.
Q. And they would include state-based licensing, to the extent those were required?
A. Correct.
Q. For controlled substances?

Page 69

A. Correct.
Q. The customer licensure verification, we talked a little bit about this.
But, is this Shaun Abreu's department?
A. Yes.
Q. Okay. The databases that they use, at least in 2016, are MedPro and NTIS systems.
Is that right?
A. Yes, from back then, yes.
Q. Okay. Is it different today?
A. I'm not aware. I don't believe so. I think it's the same.
Q. And the JDE is what?
A. It's an Oracle EIP system.
Q. Okay. And is that the mother -- the mother board of everything?
A. Enterprise resource system that runs a company.
Q. Okay. If you could turn to page 13, the slide that you have in your presentation called DEA Suspicious Order

Page 70

Monitoring: Suspicious order monitoring is managed through a system algorithm that was built by a leading DEA consultant firm that confirms practice standards to insure that only controlled substance drugs applicable to the practice are sold and that the amounts of controlled substances are in line within acceptable tolerance ranges.

The DEA consulting firm you're referring to there is the Buzzeo firm, or do you know?

A. I believe so, but I can't -- I'm not a hundred percent positive at this time.

Q. All right. If you go to the fourth bullet point: The team has gone back to gain Know Your Customer forms from customers over the last few years on a risk-based approach.

We were talking about that a little earlier. In an effort to catch up on the 60 percent of the customers that had no due diligence Know Your Customer

Page 71

files, as of this point, it says: We have approximately 600 left out of the total of 18,000 customers purchasing controlled substances.

Was this a reporting to your direct supervisor of what was left in the project to catch up on the Know Your Customer documentation?

A. Yes, that's fair. Yes.

Q. It says: Lastly, we perform approximately 800 due diligence reviews and 133 physician site audits of suspicious customers each year, which has been growing yearly. We also perform DEA audits of JVs.

What are JVs?

A. Joint ventures.

Q. Involved in controlled substances, including ACE, HSAH, Health First, Banyan and Darby.

The DEA audits that you refer to here, who ran those?

A. It would be Sergio or Frank O'Regan and the team.

Page 72

Q. Okay. And, where are those audits kept, that is the reports of those audits?

A. We have a share drive online.

Q. Okay. And, how often were those audits performed in the time that you were responsible from when you started to -- to present? What was the regularity of frequency of those audits?

A. I'd say yearly, but I can't be sure for every one. We target try to do it yearly.

Q. And they would have been reduced to a writing, correct?

A. Mm-hm.

Q. Yes?

A. Yes.

Q. And those writings would have been shared with you and you would have kept them in the ordinary course of business, correct?

A. Yes.

Q. And, to the extent those audits produced any recommendations or concerns,

Page 73

those would have been elevated to the correct people for -- to be addressed, correct?

A. At each facility, that's correct.

Q. And, that is separate and apart from any outside auditing, that is any vendors that came in like Buzzeo or Dendrite, to come in and do the same function, right?

A. That is correct, yes.

Q. And those outside audits were also produced to you in a report form, correct?

A. I'm not aware. I mean, I don't recall.

Q. Okay. I'll have some to show you and maybe we can talk about it.

But, to the extent that Dendrite, Buzzeo, any of those entities performed an audit and issued a report or finding, you would certainly be one of the people to have received it, correct?

A. If it was of a Henry Schein

Page 74

facility, absolutely.
If it was for a joint venture, I'm not sure.
Q. Fair enough. And I'm mostly concerned about Henry Schein.
A. Yeah. Then I would say yes then.
Q. Okay. And, do you know how often outside vendors performed audits on DEA compliance?
A. I think fairly regularly, but I don't know the time frame. So, 12, 18 months, maybe once every two years, somewhere in that area.
Q. Okay. And, was there somebody -- was there another auditing company besides Dendrite that you can think of that would have performed that kind of function?
A. Hyman Phelps.
Q. Okay. Do you know when they would have performed their audit?
A. That was this past fall.
Q. Fall of 2018?

Page 75

A. Yes, sir.
Q. And, was a report -- do you recall reading a report of their audit?
A. Yes.
Q. And, is that something you would maintain in the ordinary course of your business?
A. Yes, sir.
Q. Do you recall any of the conclusions of that audit?
A. Not -- no, sir. I --
Q. You'd have to rely on the document?
A. I'd have to look at it.
Q. Fair enough.
Any other third-party vendor audits that you can think of?
A. I can't recall. Sorry.
Q. Fair enough.
If you turn to page 15. It says: Quality Assurance and Regulatory Affairs communications plans have been established for training and best practices review for all facilities and

Page 76

JVs impacted by controlled substance DEA issues, Quality Assurance and Regulatory Affairs issues and Trade Compliance issues.
The meetings are held with relevant facilities regarding DQSA prescription serialization and UID FDA compliance. Monthly reports are provided for all territories and quality metrics have been established for overview of critical processes.
These monthly reports, who produces them? And where are they?
A. My staff produces them. Each individual has a contributing part. I would put an executive summary on it, and then I would provide it to my boss.
Q. Okay. And that's on a monthly basis?
A. Correct.
Q. And that began when, to your knowledge?
A. I think my stamp on it came probably in the fall of '13.

Page 77

Q. Okay.
A. So I don't know December or November, somewhere in there.
Q. So some time in the end of 2013 through to today, these monthly meetings or reports have been a normal process of the department?
A. Correct.
Q. Okay. On page 16 it says: Quality Assurance and Regulatory Affairs developments are tracked globally by many individuals around the globe through seminars, general industry news publication, email notifications from regulatory agencies, trade journals and keyword searches in Westlaw and Nexus.
Is there a place where those tracked data or informations are kept?
A. At this time, no.
Currently we have adapted one of our positions to we call it Government Affairs position and that person is a lawyer. They got their degree while working with us. They -- they had gone to

Page 78

school, but they finally passed the bar, and they're now the repository.
Q. Okay. And, who is that person today?
A. Nick DeLucia.
Q. Okay. And, any such -- the next thing: Relevant findings are shared throughout the Henry Schein network.
Are they shared electronically?
A. Yes. Or one of the monthly meetings. So if we have a monthly meeting with staff and we're talking about a -- a new regulation or something like that, we'll start kicking it off.
So, there's a major regulation coming in Europe called the Medical Device Regulation. It's kind of more mimicking the A20 for medical devices. So, you know, it's coming into effect in 2020, so it's a lot of -- a lot of activity. Everyone's getting involved in meetings, now the kickoff meeting, looking at GAAP analyses, et cetera.
Q. And, so, that would be housed,

Page 79

the hub for that would be Nick DeLucia?
A. The information about that, yes.
Q. Okay.
A. And others.
Q. Let me show you page 21, and once we're finished with this we'll take our first break.
Page 21 has -- it's entitled the "Role of Regulatory Affairs." It says: Regulatory Affairs are responsible for the compliance of all Henry Schein operations with applicable regulatory requirements including - you list a bunch, but it says: DEA, the National Board of Pharmacy, state boards of pharmacy, and others both at the federal and state level.
That -- that's -- that is responsibility of your department, correct?
A. Correct.
Q. It says: The manufacture, purchase, storage, sale and shipment of prescription drugs, including controlled substances, prescription medical devices,

Page 80

hazardous materials and pesticides are highly regulated activities by numerous government agencies worldwide.
So, are you responsible here, in any way, and I'm trying to focus in on the sale of controlled substances.
Do you have, are you reporting that you have within Regulatory Affairs a responsibility as to the sale and sales practices of controlled substances?
MR. McDONALD: Object to the form.
A. Semantics, I believe.
Processes are in place. There's customer verifications placed to make sure that the doctors are appropriate licensed. So, in that context, I think sale could be considered.
Q. What about the messaging of the sales force at Henry Schein to new customers or existing customers?
A. I believe we do play a role. I think there's a -- a -- I'm trying to recall, but I believe there's a package

Page 81

that we've kind of, you know, educational package that we put out.
Q. Okay. Do you know what that package is called?
A. I don't.
Q. Do you know how big the sales force is at Henry Schein?
MR. McDONALD: Object to the form.
A. Roughly, it's about three to four thousand.
Q. And, are all three to four thousand sales reps qualified, authorized to sell, among other things, controlled substances?
MR. McDONALD: Object to the form.
A. I couldn't speak to that, sir.
Q. Okay. That's what I'm trying to understand, what -- what it is that you oversee with respect to sales.
What if those sales forces were presenting brochures of manufacturers about controlled substances, is that

Page 82

something that would get reviewed through your department?
MR. McDONALD: Object to the form; assumes facts not in evidence.
A. No, sir.
Q. Okay. Do you know whether the sales force at Henry Schein delivered any promotional materials of any of the controlled substance manufacturers in their sales?
A. I do not have any such knowledge, no.
Q. Okay. One way or the other, you don't know?
A. I don't know.
Q. All right. And you don't recall, since 2013, ever being asked to review a situation where some representations were made of the sales force to doctors or consumers of -- of opioids from Henry Schein's distribution?
A. Representation of?
Q. Of any kind about the efficacy, the safety, the -- the use of, the proper

Page 83

use of, the indications for controlled substances?
A. No, I have not.
Q. All right. It says: Regulatory Affair customers - in quotes - includes almost every Team Schein Member, TSM. We aid our fellow TSMs and joint venture partners across the globe working in business units in marketing, in private brand, operations, verifications, customer service and business development.
What roles do you play in marketing as part of the Team Schein Members that are involved in marketing?
A. Well, I think in marketing we play a role in onboarding new -- new cus -- new products. So, in terms of what they're looking to bring on, 'cause we -- that's the business that we're in is bringing on new products. So understanding what's there. We look at their regulatory requirements, making sure that the products are properly registered and they have, you know, all of the proper

Page 84

requirements that the company is in good standing with the FDA, no recalls, no warning letters, things of that nature. So that we facilitate them bringing new products into the Henry Schein fold.
Q. And, is it also true on the other side, on the distribution side, that you're involved with the Know Your Customer compliance obligations and all of the out-the-door compliance requirements relative to marketing and sales?
MR. McDONALD: Object to the form.
A. Two parts to the question again.
So, the customer verifications, again, yes, that's correct.
If you're talking about marketing materials or anything else, promotional materials regarding any particular products, no.
Q. Okay. What's your definition of the verification process? What comes out of Verification for regulatory affairs purposes?

Page 85

A. What would come out of Verifications from the customer service function would be an order that's pended that they were not able to make a determination on, that they need additional eyes or decision-making processes to make a final determination of restriction or allowing sales.
Q. Is the -- the process of pending an order or performing due diligence of an order primarily, or on the front lines, the responsibility of the Verifications Team?
A. Define front lines.
Q. The first indication of a potential suspicious order or any red flag.
A. Then the answer's yes.
Q. So, it's the Verifications Team that would be the first to learn of and know of a potential red flag?
A. That's correct.
Q. And it would be through the Verifications Team that a decision would

Page 86

be made to halt shipment or clear shipment or seek review from your department, correct?
A. I'd have to look at the procedure, but yes.
Q. All right.
A. It makes sense.
Q. In preparation for today, did you educate yourself on the history of the suspicious order monitoring programs and SOPs, or do -- do you know it just from your on-the-job training?
A. I did not educate myself in preparation for this.
You know, this is one of many functions that I am responsible for. So I do have, you know, some knowledge. It's certainly not intimate knowledge about the specifics of each procedure.
Q. Okay. So, to the extent we were to get into the -- the history of when the first suspicious order monitoring program was put in place and what it entailed and how it evolved and what set the thresholds

Page 87

prior to your employment at Henry Schein, you would defer to somebody else on that information?
A. Yeah. I would not have that information.
Q. All right. If you go to page 22. Again there's a reference to Regulatory Affairs and DEA compliance.
It says: The sale of controlled substances is a high risk area with heavy fines.
You agree with that, correct?
A. Absolutely.
Q. And you know that by definition, a controlled substance or a Class II controlled substance is a substance that has a high risk of abuse and misuse, correct?
A. Yes, sir.
Q. All right. Regulatory Affairs implemented and maintains a rigorous Suspicious Order Monitoring and Know Your Customer systems, as well as providing sales reporting to insure compliance with

Page 88

DEA requirements and best practices.
Is the sales reporting there a reference to ARCOS reporting?
A. Yes, sir.
Q. And, is the ARCOS reporting, does it emanate from your department or from Verifications?
A. So, it's out of the JD Edwards system. It's an automated process.
Q. Okay. Who -- who monitors it, supervises it, quality controls it? Who's -- who's looking at it?
A. The Verifications Team.
Q. All right. On page 22 it says: Facility audits. Regulatory Affairs conducts domestic facility audits for Henry Schein Inc. and subdivision partners primarily for DEA and OSHA audits. The audit teams identify where a violation could potentially arise and partner with facility representatives to proactively resolve these concerns.
Are these the audits that we were talking about earlier that you think

Page 89

happened maybe once a year?
A. For our DCs, absolutely. And for the JVs, likely.
Q. Okay. And them.
And, to the extent there are reports of those, again, you would have received those for the domestic DCs?
A. Correct.
MR. MIGLIORI: You have to forgive me. Somehow over the past two days, I developed a cold. So if my voice dropped or you can't understand me, let me know. I feel like I'm shouting right now.
THE WITNESS: Not at all.
BY MR. MIGLIORI:
Q. And in the last page, and then we'll take a break, it says: Metrics of regulatory activities.
This is you just compiling, basically from the time you got there through the report in 2016, so essentially from July of '13 or throughout all of '13 through all of '16, the -- the -- certain

Page 90

activities --
A. Activities.
Q. So complaints, adverse events, recalls and the like, right?
A. That is correct.
Q. When it says "DEA due diligence" in the middle of the page, what is that?
Is that the Know Your Customer follow-up?
A. That is correct.
Q. And, so, in 2013, 529 new Know Your Customer reports were added to the system.
Is that how I'm reading this?
A. That's correct.
Q. And then in 2016, in that calendar year, there were an additional 930 added?
A. Yes.
Q. Do you know as of --
A. Now, excuse me. I don't know if they're new customers or they were a customer that had been, whether it was a new drug or a new something else that

Page 91

would trigger a due diligence file to be reviewed. So, just to clarify that.
Q. So this number 930 could be new onboarded clients along with those that never had a Know Your Customer letter in the file that you were retroactively catching up on?
A. Correct.
Q. All right. But the 930 is for the calendar year 2016, correct?
A. Correct.
Q. And the DEA customer audits, that would be your department or Verifications going out to see your customers?
A. My department.
Q. And, who would perform those audits? Is that the team, the --
A. Under Frank O'Regan.
Q. -- Tina or Fred?
A. Yeah.
Q. Is it Fred or Frank?
A. Frank.
Q. They would go out and they would

Page 92

go out based on would it be the high risk prioritized that is -- do they go out randomly, or do they go out to specific facilities based on risk?
A. Based on risk.
Q. Okay. And, so, in 2013, if I'm reading this right, 103 such audits were performed of customers throughout the U.S.?
A. Mm-hm.
Q. Yes?
A. Yes.
Q. And in 2016, 120 DEA audits performed by Henry Schein within your department were performed throughout the United States?
A. Yes.
Q. And, obviously, that would include the State of Ohio, where we are in this litigation?
A. It would include. Whether it's true or not for Ohio, I can't say.
Q. To find out which are from Ohio and which are from others, there is a way

Page 93

to search that information, correct?
A. Yes.
Q. And, is that in the JDE?
A. It would be in the share -- share drive.
Q. Share drive?
A. Yeah.
Q. Okay.
A. All the reports would be in there.
Q. Do you know how far that -- those reports go back?
A. I do not.
Q. Did you do anything to educate yourself at all, before we take a break, about Ohio-specific actions taken, investigations, audits in preparation for today?
A. I did not.
MR. MIGLIORI: Okay. Let's take a break and see if I can get my voice back.
THE VIDEOGRAPHER: All right. The time is 10:29 a.m.

Page 94

Going off the record.
(Recess taken.)
THE VIDEOGRAPHER: We are back on the record.
The time is 10:48 a.m.
MR. MIGLIORI: I appreciate the education you gave me on the systems of the company. I want to take a step back and talk about opioids specifically and your obligations on opioids.
Let me show you Exhibit Number 5.
(Peacock Exhibit 5, Title 21 United States Code Annotated Section 801, was marked for identification, as of this date.)
BY MR. MIGLIORI:
Q. As the vice-president of, among other things, Regulatory Affairs, you agree with me that it's within your department ultimately that you are responsible for compliance with the Controlled Substance Act, correct?

Page 95

A. Yes, sir.
Q. And Congress made certain findings about controlled substances, like opioids.
Have you ever seen these before?
MR. McDONALD: In this form?
MR. MIGLIORI: And I'm referring to Exhibit 5 is the -- is the direct Congress findings in the Controlled Substance Act relative to controlled substances.
A. I have not.
Q. Let's see if you understand that this is part of your charge and responsibility within Regulatory Affairs at Henry Schein.
It says Congress --
MS. BORSAY: I'm sorry to interrupt. This is Casteel Borsy with Jones Day on the phone.
I'm having a really difficult time hearing the questions now. I could hear them before the break. So I don't know if you moved or don't

Page 96

have a microphone.
MR. MIGLIORI: As I was saying at the break, I developed a cold and my voice is starting to fade.
So, I will try to talk louder, but it -- I feel like I'm screaming. But I'll keep -- there's no way to move the phone. The microphones are built into the table.
MS. BORSAY: Okay. Thank you.
MR. MIGLIORI: But I'll do my best.
BY MR. MIGLIORI:
Q. It says: Congress makes the following findings. Many of the drugs included within the subchapter have a useful and legitimate medical purpose and are necessary to maintain the health and general welfare of the American people.
You understand that to be true for controlled substances?
A. Yes, sir.
Q. The illegal importation, manufacture, distribution or possession of

Page 97

improper use of controlled substances have a substantial and detrimental effect on the health and general welfare of the American people.
Do you agree with that statement?
A. I do.
Q. Do you believe today that we are in an epidemic with respect to the abuse and misuse of opioids?
A. I --
MR. McDONALD: Object to the form.
Go ahead.
A. I do.
Q. We talked about this a little earlier, but controlled substances have a schedule. Schedule II opioids are, A, the drug or other substance -- are classified as this: The drug or other substance has a high potential for abuse.
You understand that to be true for opioids, correct?
A. That's correct.

Page 98

Q. The drug or other substance has a currently accepted medical use in treatment in the United States or currently accepted medical use with severe restrictions.

Do you appreciate that? Do you agree with that?

A. Accepted medical use, yes.

Q. And that there are severe restrictions on that use, correct?

MR. McDONALD: Object to the form.

If you know, tell him.

A. In terms of -- not -- I don't -- I'm not following what it says.

Q. That there are severe restrictions placed on the use of --

A. In the ability to acquire them?

Q. And distribute them.

A. Yep. Yes.

Q. Okay. The abuse of the drug or other substance may lead to severe psychological or physical dependence.

Do you understand that to be

Page 99

part of the classification of a Schedule II drug?

A. Yes, sir.

Q. Is there somebody at Henry Schein that is specifically tasked with overseeing the compliance with Schedule II controlled substances, or is that a general obligation within your department, of all people that work for you?

A. In the Regulatory Department, it's general.

Q. And you understand that you have a registration that is given by the attorney general of the United States to distribute Schedule II controlled substances which requires you to be in compliance with the Controlled Substances Act, correct?

A. That is correct.

Q. And that failure to comply with the Controlled Substances Act could cause, among other things, the suspension or revocation of that DEA registration, correct?

Page 100

A. Correct.

Q. And part of that obligation of Henry Schein is to maintain an effective control against diversion of particular controlled substances into other than legitimate medical, scientific and industrial channels.

Do you understand that to be Henry Schein's obligation as a DEA registrant?

A. Yes, sir.

Q. In carrying out that obligation, do you understand that there's a specific provision of the Controlled Substance Act, this is Exhibit Number 6, that requires Henry Schein, as a DEA registrant, to design and operate a system to disclose to the registrant suspicious orders of controlled substances?

Do you understand that is the obligation of Henry Schein to design and operate that system?

A. Yes, sir.

(Peacock Exhibit 6, Title 21

Page 101

Code of Federal Regulations Section 1301.74, was marked for identification, as of this date.)

BY MR. MIGLIORI:

Q. (Reading) The registrant shall inform the field office -- field division office of the administration in his area of suspicious orders when discovered by the registrant.

Do you understand that suspicious orders are to be, and have been since 1971, reported to the DEA field office when they are discovered?

MR. McDONALD: Object to the form.

A. Yes, sir.

Q. (Reading) Suspicious orders include orders of unusual size, orders deviating substantially from a normal pattern, and orders of unusual frequency.

Do you understand that to be, in part, the definition of a suspicious order?

MR. McDONALD: Object to the

Page 102

form.
A. I do.
Q. So, an order that deviates from a prior order in size, in pattern, or in frequency, by this definition, is presumed suspicious until determined otherwise, correct?
MR. McDONALD: Object to the form.
A. Yes. Yes.
Q. In your review of the historical suspicious ordering monitoring programs of Henry Schein, did you ever learn that the suspicious order monitoring program through 2009, at least, did not measure deviations in frequency or pattern? Did you ever learn that fact?
A. I did not.
Q. Okay.
A. I had no understanding, no.
Q. And, to the extent that that is true or not, that is something you leave to those that were there at the time, correct?

Page 103

A. I would have to investigate. Can't really make a determination, sir.
Q. I guess my question is more simple then. You're not the person to either refute that or affirm that statement, correct?
A. That's correct.
Q. Are you aware that in Ohio, in searching for suspicious orders in this case, Henry Schein represented and represents that it found no suspicious orders reported to the DEA from 2009 to the present, that is during the period of time that it had transactional information?
MR. McDONALD: Object to the form; mischaracterizes and misstates the assertions of Henry Schein in this case.
BY MR. MIGLIORI:
Q. Were you aware of that?
MR. McDONALD: Object. Same objection.

Page 104

BY MR. MIGLIORI:
Q. You can answer.
A. Could you reclarify or restate, please?
I'm sorry.
Q. Were you asked to help prepare answers to interrogatories in this case, or provide information so that the company could respond to written questions in this case?
A. No, I was not.
Q. Did you review yesterday any of the written responses of the company in this case?
A. No, I did not.
Q. Did they show you that Henry Schein has not produced any suspicious orders for Ohio in this case?
A. No, they had not.
Q. Does it surprise you that there are no suspicious orders reported to the DEA by Henry Schein in this case?
MR. McDONALD: Object to the form.

Page 105

A. I would have to see what the ordering patterns are, how much the volumes were. There's no way I could make a determination just without any information, sir.
Q. You would agree with me that if there were no suspicious orders for Ohio from 2009 to present, it would mean that there were no orders that deviated in size, frequency, or pattern, by definition, correct?
MR. McDONALD: Object to the form.
A. So, I think, you know, I'd have to understand what the -- what the scope of this, you know, question is.
So, if we looked at sales volumes, numbers, et cetera, what's the practices are there, what's the percentage of our total sales, et cetera, I'd be better apt to answer that question.
Q. Fair enough. But I'm not asking you about reporting.
I'm just simply saying that if

Page 106

there were an order that deviated in size, frequency, or pattern --
A. Yes. Then yes.
Q. -- then it would be a suspicious order, correct?
A. Yes.
Q. And, at the time of discovering that deviation in size, frequency, or pattern, under the obligations that we just read, it would have had to have been reported at the time of discovery, correct?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. That's the law, correct?
MR. McDONALD: Object to the form.
He's not a lawyer.
MR. MIGLIORI: He's a Regulatory Affairs vice-president.
MR. McDONALD: And you --
BY MR. MIGLIORI:
Q. What is your understanding of

Page 107

your obligation to comply with the DEA as the person in the company worldwide responsible for DEA compliance?
MR. McDONALD: Objection.
BY MR. MIGLIORI:
Q. Who's not a lawyer.
A. I am not a lawyer.
MR. McDONALD: Hang on. Hang on.
Q. I understand.
MR. McDONALD: Object to the form; vague as to time.
You can give your understanding.
BY MR. MIGLIORI:
Q. Do you understand my question?
A. Yes, I do.
Q. All right.
Do you have an answer?
A. I would say yes.
Q. Okay. So, to make sure we understand it, after all of that interchange between me and your counsel.
MR. McDONALD: There wasn't that much.

Page 108

MR. MIGLIORI: Well, I almost forget my own question.
BY MR. MIGLIORI:
Q. The -- the existence of a deviation in size, frequency, or pattern, once discovered, at the time of discovery, is required to be reported to the field office of the DEA under the regulations, correct?
MR. McDONALD: Object to the form.
A. Yes, that's my understanding.
Q. Those regulations, to your understanding, go back to 1971, even before OxyContin was on the market, correct?
MR. McDONALD: Object to the form.
A. Yeah, I -- I was not involved in anything regarded to controlled substance prior to 2013. So I never researched when it officially went into effect.
So I can't answer specifically, but --

Page 109

Q. Okay.
(Peacock Exhibit 7, letter dated December 21, 2018 from Locke Lord, with attachment, was marked for identification, as of this date.)
BY MR. MIGLIORI:
Q. I'm going to show you Exhibit Number 7. Your counsel had a concern that I was misrepresenting what Henry Schein said. So I just -- I don't want to put words in your mouth or the company's mouth.
This is Exhibit Number 7. This is a December 21st letter of Locke Lord in this case to the Court, and I'm just going to direct your attention to the bottom where it says "Suspicious Order Reports."
It says: As previously noted, the Schein defendants have searched for and located no suspicious order reports with respect to any of its customers with whom they have transacted business in Summit County, Ohio, for the time period for which they have transactional data.

Page 110

Do you see that?
A. I do.
MR. McDONALD: And, to be clear, you previously said the State of Ohio. And this clearly says Summit County.
MR. MIGLIORI: That's why I'm doing this. I'm not being -- I'm trying to clarify the objection.
MR. McDONALD: Awesome.
MR. MIGLIORI: I'm not a hostile person.
MR. McDONALD: I know you're not. You just have a cold.
MR. MIGLIORI: I do have a cold.
MR. McDONALD: I'm trying to help you out.
BY MR. MIGLIORI:
Q. So, in searching all of Summit County, Ohio for the time period that Schein maintains transactional data, Henry Schein has found no suspicious orders which would mean, under the law, that Henry Schein found no deviations in size, frequency, or pattern in any of its

Page 111

controlled substance orders for the time period that they had data, correct?
MR. McDONALD: Object to the form.
A. That's what it says. That's correct.
Q. Okay. And, if a deviation in size, frequency or pattern did -- did arise, the obligation would have been at the time of identifying it for Summit County that Schein report that deviation of size, frequency, or pattern of ordering opioids to the field office for Ohio, correct?
MR. McDONALD: Object to the form.
A. Yeah. Again, so back to my comment if it failed to meet the requirements, then yes, it would need to be reported. But, you know, depends on what the volumes were and all the other issues, so.
Q. Sure.
A. There's no data to look at, so.

Page 112

Q. This is much more definitional than anything specific. It just simply said if there were a deviation in size, frequency or pattern in any drug, in any opioid distributed by Henry Schein in Summit County, that deviation in size, frequency or pattern, under the Controlled Substance Act, would have had to have been reported at the time it was discovered to the field office of the Drug Enforcement Agency, correct?
MR. McDONALD: Object to the form.
A. Correct.
Q. And, based at least on the exhibit in front of you, Exhibit 7, no such reports to the DEA have been located at Schein for that time period in Summit County, correct?
A. According to this document.
But I have no knowledge of who, what, when, where, why this was done.
Q. Fair enough. Thank you.
Are you familiar with the -- the

Page 113

Healthcare Distribution Management Association or its successor, the Healthcare Distribution Association?
A. Yes, sir.
Q. Are you a member of it?
A. Our company is. I've attended a meeting. I get, you know, monthly updates, blog, newsletters, things like that.
Q. Are you provided with minutes or accounts of HDA meetings attended by various Henry Schein employees?
A. May or may not have been. Depends. We go every year. So, generally, somebody in the organization, whether it's in regulatory or others, we've had, you know, many -- many different people may have attended.
Q. Is there somebody at Henry Schein who serves on the board, to your knowledge?
A. Vaguely familiar, but I couldn't name the person, sir.
Q. Okay. But you understand

Page 114

that -- that that is the trade association for distributors of -- of pharmaceuticals, including controlled substances, correct?
A. That's correct.
Q. And Henry Schein is one such distributor, correct?
A. That is correct.
Q. Other members include manufacturers of controlled substances, correct? Do you know that?
A. I don't know for sure.
Q. All right. And, relative to the issue of suspicious order monitoring and obligations to comply with Controlled Substances Act, are you familiar with the HDMA's guidance that it published with the input of all of its members back in 2008?
A. Don't recall. Haven't recall seeing it, sir.
Q. Okay. Let me show it to you.
(Peacock Exhibit 8, Healthcare Distribution Management Association (HDMA) Industry Compliance Guidelines: Reporting Suspicious Orders and

Page 115

Preventing Diversion of Controlled Substances, Bates No. HSI-MDL-00063613 to 00063627, was marked for identification, as of this date.)
A. Based on the time frame, I would say no. But I prefer to look at it before I make a determination.
Q. Absolutely.
MR. McDONALD: It will make your deposition shorter if you say no.
MR. MIGLIORI: Maybe not.
BY MR. MIGLIORI:
Q. Let me show you what's been marked as Exhibit 8. This is the industry compliance guidelines of the Healthcare Distribution Management Association (HDMA). The Industry Compliance Guidelines: Reporting Suspicious Orders and Preventing Diversion of Controlled Substances.
Does that look familiar to you at all?
A. No, I have not seen this before, sir.

Page 116

Q. And part of your on-the-job training for compliance with DEA regulations when you got to Henry Schein in 2013, this wasn't, to your recollection, part of any introduction?
A. Not in this format. Might have been summarized or parts of it pulled out, but I don't recognize this format, sir.
Q. In the introduction it refers to its membership. It says: Manufacturers, distributors, pharmacies and healthcare practitioners share a mission and a responsibility to continuously monitor, protect and enhance the safety and security of this system, to combat increasingly sophisticated criminals who attempt to breach the security of a legitimate supply chain.
Do you understand that one of the reasons why your department is charged with compliance with DEA is to protect against diversion of drugs?
A. Yes, sir.
Q. And it says: These industry

Page 117

compliance guidelines are consistent with and further extend the distributor's track record of supporting and implementing initiatives designed to improve the safety, security and integrity of the medical supply. They have been prepared in recognition of a growing problem of misuse and diversion of controlled substances and the critical role of each member in the supply chain in helping to enhance security.
Do you understand that the role or the obligation of all members of the supply chain for controlled substances is, the critical role of each member, is to help prevent and protect against misuse and diversion of controlled substances, including opioids?
MR. McDONALD: Object to the form.
A. I think it's a community. Everybody should be responsible, you know.
We wish physicians would be more responsible, sure.

Page 118

Q. But, on that point, your trade association says: At the center of a sophisticated supply chain, distributors are uniquely situated to perform the diligence in order to help support the security of the controlled substances they deliver to their customers.

Do you see your role as being a unique position to understand the supply issues relative to potential diversion, abuse, and misuse of controlled substances?

A. I mean, we're -- we're one of the key. Everybody's in the key. So, manufacturers have their role. They don't necessarily all distribute, right. So they go through large distributors. We're, you know, dealing with physician and practices, very small. Whereas everybody's responsible, in my opinion.

Q. Do you think that, as a distributor, you're in a unique position to understand the supply issues of each of your customers?

Page 119

MR. McDONALD: Object to the form.

A. The supply issues of how they get it? It's difficult if they get it from more than one distributor.

Q. You understand you have the ability to, and in fact at times do, ask for dispensing information from your customers for all controlled substances?

MR. McDONALD: Object to the form.

A. Yes, we ask, but depends what they tell us.

Q. Sure.

A. Fundamentally, this is something that, you know, if somebody's going to be diverting drugs necessarily going to be telling us the truth.

Q. Right. To the extent your trade association says that the distributors, because of their role in connecting manufacturers with its customers, whether they be doctors or hospitals or pharmacies, that because it's your role to

Page 120

supply it, that you are in, as your trade association says, distributors are uniquely situated to perform the due diligence in order to support the security of the controlled substances they deliver to their customers.

Do you believe that to be true?

A. The definition of unique. I mean, it's -- yes, we have a central role.

Q. Okay.

It says: Further, due diligence can provide a greater level of assurance that those who purchase controlled substances from distributors intend to dispense them for legally accepted purposes.

That is one of the goals of due diligence, correct?

A. Yeah.

Q. You agree with that, yes?

A. I do, yes.

Q. And that due diligence can reduce the possibility that controlled substances within the supply chain will

Page 121

reach locations they are not intended to reach.

Do you agree with that? That's another benefit or function of proper due diligence?

A. With the caveat that if we get told the truth, we can do our jobs, yes.

Q. Is it enough to just ask a question and get an answer for due diligence?

MR. McDONALD: Object to the form.

A. You need to do many things. So, you could do a site audit. You could, you know, do a Google search. You could look at Google Earth and see what their facility looks like. There's a lot of things you could do to try to assess what the conditions are.

Q. Okay. Let's see what some of the suggestions are of the HDA.

Let's turn to the page that starts with '616, on the bottom it says '616.

Page 122

In 2008, your trade association recommended to its members different things to do before opening a new customer account.

The distributor should obtain background information on the customer and the customer business.

You agree that's a -- a good thing to do, correct?

A. Yes.

Q. They should review the information carefully and, where appropriate, verify it.

That's what your Verifications Department would do, correct?

A. Yes.

Q. Independently investigate the potential customer.

That's an important part of due diligence, correct?

A. Yes.

Q. And the -- when we refer to Know Your Customer Due Diligence, that is a component part of your obligation to

Page 123

comply with DEA regulations, correct?

MR. McDONALD: Objection.

BY MR. MIGLIORI:

Q. That is the Know Your Customer obligation exists beyond identifying changes or deviations in size, frequency, and pattern, correct?

MR. McDONALD: Object to the form.

BY MR. MIGLIORI:

Q. Do you understand my question?

A. Yeah. I'm trying to relate it to what the, you know-

Q. I could break it down.

A. Yeah, please.

I'm sorry. I'm getting stuck on semantics here.

Q. Know Your Customer is an obligation that you have to be compliant with DEA even before you supply the first opioid or controlled substance to that customer, correct?

MR. McDONALD: Object.

A. Yes.

Page 124

MR. McDONALD: Object to the form.

BY MR. MIGLIORI:

Q. In other words, it's not driven or triggered only by a deviation in size or frequency or pattern order. It's triggered by your obligation as a DEA registrant who will supply or intends to supply controlled substances to that customer, correct?

MR. McDONALD: Object to the form.

A. Yeah. I'm not a lawyer. I mean, at the end of the day, I believe you're correct.

Q. Right. And I'm asking these questions in your role as a reg -- as the vice-president of Regulatory Affairs, not as a lawyer.

So, to the extent you can answer it as a vice-president of Regulatory Affairs and compliance with DEA, from that perspective, that's all I'm asking.

A. Okay.

Page 125

Q. So, the Know Your Customer requirement starts as you onboard a new client, right?

MR. McDONALD: Object to the form.

A. Yes. Verifications of licensing, et cetera is part of the process.

Q. And sometimes it's a site visit to see what kind of -- what kind of customers might be in the waiting rooms of the -- either the dispensary or the doctor's office, correct?

A. I mean, there's many forms. I don't do those audits, so I really can't speak to what the specifics of the actions are.

Q. Well, you gave a couple examples recently.

You're familiar with certain red flag items are for --

A. Yeah.

Q. -- Know Your Customer Due Diligence, correct?

Page 126

A. Yes, sir.
Q. Some of them involve is the patient paying with cash or insurance.
That's one red flag issue, correct?
A. Yes.
Q. Cars in parking lots with out-of-state license plates is another red flag issue, right?
A. It would appear to be, sure.
Q. And a doctor that orders a disproportionate amount of controlled substances to non-controlled substances raises a red flag concern that should be investigated, correct?
A. You know, would depend on the circumstance. A pain clinic, maybe not.
So, it depends on what the circumstance of what the practice is. That would also be considered.
With the license plate issue, it depends on if they're on the border of someplace. That might have some --
Q. Henry Schein has --

Page 127

A. It's a variable.
Q. I'm sorry.
Henry Schein has a due diligence form that it sends to all of its customers, correct?
A. That is correct.
Q. And when it discovered that 60 percent of them didn't have this form, this process that you've been reporting on is to get that form out to the customers and get that feedback from the customers about various things, including where their office is, what kind of practice they have, what types of controlled substances they -- what percentage of controlled substances they use, et cetera, correct? Those are different elements of your --
A. Of the questionnaire, yes. Some of that information would have already been captured on the customer setup form in the JDEwards that would allow us to, you know, ship the product.
Q. And, so, that -- those are the

Page 128

different types of information that are part of your ongoing consistent obligation to know your customer, not just those that are triggered by a deviation in size, frequency and pattern of -- of order, correct?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. That's an ongoing obligation?
MR. McDONALD: Object to the form.
A. Yes. It's part of what we do. Yes.
Q. Okay. This HDMA guidance actually gives a bunch of questionnaire suggestions.
Do you see it here on the bottom of page '616?
A. Yes.
Q. It talks about the business background and the customer base and the average number of prescriptions filled each day.

Page 129

You don't ever recall getting this kind of guidance in -- at Henry Schein when you started in this position?
A. So, the process of some of these were in place at the time.
Q. Okay.
A. So, it was a review of what the practices were. That's what I was basically my job -- on-the-job training was about.
Q. Okay. And, when you got there, you were aware that Henry Schein in 2013 was somewhat behind on the Know Your Customer Due Diligence side of compliance, and it was part of your job to get caught up, correct?
MR. McDONALD: Object to the form.
A. I'm not exactly sure when I learned of the -- the backlog, but ultimately, yes.
Q. And that was one of the -- one of the measures, even for your own performance within the company, was your

Page 130

ability to sort of rectify this problem that pre-existed you at the company, correct?
A. Correct.
Q. All right. And today, as of today, has that now been caught up, to your knowledge?
A. To my knowledge, yes.
Q. Okay. And is that process of catching up on all that backlog due diligence, was that something that was primarily the responsibility of the Verifications Department and Shaun Abreu's side of things?
A. Primarily.
Q. But in order to be compliant, in order for your department to report compliance with DEA, that's something that you would have had a sort of joint responsibility for --
A. That's correct.
Q. -- at least accountability for, correct?
A. That's correct.

Page 131

Q. All right. Turn to page '618. The HDMA recommended to its members that the distributor should independently invent -- investigate the potential customers by checking with the local DEA office for information regarding a potential customer.
Is that something that would be a good practice for onboarding a new customer?
A. I'm sorry. What bullet are you on?
Q. The very first one on top. I'm sorry. Paragraph D.
When you onboard a new client -- a new customer at Henry Schein, do you check with local DEA?
A. Not to my knowledge.
Q. Another recommendation is that you check with the state oversight authorities, like the Board of Pharmacy and the Board of Medicine.
To your knowledge, does Henry Schein check with those boards prior to

Page 132

onboarding a new client?
A. In relate to both of them would be their licenses. If there's any issues with licenses, we would certainly do that. I'm not aware that we check specifically and call and say is Dr. Jones okay.
Q. Okay. And I think Mr. Abreu talked about this, but the verification process would be to make sure that the license is in good standing?
A. Right.
Q. And that at Henry Schein is performed online as an online source?
A. An automatic source, yes.
Q. Do you check with any disciplinary counsel or medical licensure board of doctors, to your knowledge?
MR. McDONALD: Object to the form.
A. I'm not aware. Not that close to that process.
Q. What about criminal background, do you do any criminal background check on doctors that you're supplying to?

Page 133

A. Not to my knowledge.
Q. And, as you understand it today, if an order gets pended in the system and it's reviewed, one of the things that the verification department does is send out a new letter by regular mail with the various questions about the prescribing habits of that physician and wait for a response from a doctor in writing, correct?
MR. McDONALD: Object to the form.
A. I can't say. I'm not familiar with the process specifically at that level.
Q. That level is handled by Verifications or from the -- the Sergio Tejeda level?
A. The letter that goes out, Sergio's team.
Q. Okay. That's -- that's within your department, but Sergio would have the information about what actually happens --
A. Yeah.

Page 134

Q. -- at that point, correct?
A. Yep.
Q. Do you know whether when you bring on a new customer, whether, as it says here in the HDMA guidance, you conduct an Internet search to determine whether any potential Internet business can be identified relating to a potential customer?
MR. McDONALD: Object to the form.
A. I'm not aware.
Q. Relative to the question that goes out to the new potential customer, the HDMA has various recommendations. It says that the individuals selected to develop questionnaires for parts A and to conduct reviews and investigations under parts B and C should receive appropriate training.
Do you see that?
A. Yes.
Q. Do you agree that the folks that are doing the review of the due diligence

Page 135

in the questionnaires as they come back should be appropriately trained to investigate the -- whether or not an order would be considered suspicious?
A. Yes, they should be appropriately trained.
Q. Do you agree with me that they should be folks that are -- are currently trained and kept up to date on misuse, abuse, and potential red flags for diversion?
MR. McDONALD: Object to the form.
A. Yes.
Q. The next recommendation is that the distributor should update the questionnaires periodically, particularly if a concern arises during an investigation.
Do you agree that the form should change over time?
A. Continuous improvement is always what everyone should live by in quality regulatory.

Page 136

Q. And, do you agree that the performance and results of all steps in a customer review process should be fully documented as to each potential customer and such documentation should be obtained in the appropriate file?
A. The records are important. Absolutely.
Q. In fact, there's an adage that if it's not written down and recorded, it doesn't exist.
Correct?
A. Yeah.
Q. And that is true in regulatory compliance, correct?
A. That is correct.
Q. The distributor may include provisions for notification of state and federal authorities of an unlawful activity identified under the Know Your Customer Due Diligence as required by local, state, or federal law.
You would agree with me that that's an important component part. It's

Page 137

not just enough to identify such potential activity, but to share it with local law enforcement and DEA, correct?
A. I agree --
MR. McDONALD: Hang on.
I object to the form.
You need to pause, okay.
THE WITNESS: I'm sorry.
MR. McDONALD: That's okay.
BY MR. MIGLIORI:
Q. Are you involved at all in the establishment, development of any of the thresholds or algorithms used to identify changes or deviations in size, pattern, or frequency of orders by your customers?
A. I was not involved, no.
Q. To the extent that the automization or the re-tuning of the system happened or occurred, in terms of the specifics of that change, that's not something you would be directly involved in, correct?
A. I was not, no.
Q. It's fair to say that that's

Page 138

something ultimately your department's responsible for, but you relied on Sergio Tejeda for the entire time that you've held this position at Henry Schein, to make sure that the algorithms and the assumptions of the algorithms were appropriate and consistent with DEA regulations, correct?

A. It wasn't Sergio. It was the outside consultants that we hired. So there was outside, you know, groups that came in and did the re-tuning of the algorithms.

Q. I have some of those here, and I'll show them to you.

But, the outside consultants that came in, they -- they proposed the changes, but they would have to be approved at Henry Schein first, correct?

A. Mm-hm.

Q. Yes?

A. Yes.

Q. How -- how does that work at Henry Schein? Who would receive the

Page 139

certain Dendrite, Buzzeo, what was the other one, Hyman Phelps, who would receive those recommendations at Henry Schein and make a decision to-go and no-go on a particular recommendation?

A. So, depending on the circumstance, could be either the Customer Verifications and Sergio would come together, see what was, you know, needed, put together a statement of work, reach out to the consultant, have the consultant come in and then they would agree, and I probably would sign off on the final purchase order for the -- for the service.

Q. But, do you know how the algorithms work? Have you ever --

A. I have not dealt into how the algorithms work.

Q. So you will rely on Sergio and Shaun, those are the -- that's Regulatory Affairs and Verifications, you would rely on them for their input on how a threshold was established, correct?

A. That is correct.

Page 140

Q. Even though you have a science background and research and development background, at Henry Schein you don't -- you have not gotten into the specifics of suspicious order monitoring design implementation and refinement, correct? That's not -- you sign off on it, but you don't know at any given moment what the actual algorithm is or how it works, correct?

A. That is correct.

Q. And, if I were to go talk to the person that knew the most about it, not outside the company, but within the company, who would that be?

A. I'd say a combination of Sergio and Shaun.

Q. Okay. That may have saved you a lot of time today.

A. Fact.

Q. And I appreciate it. That's all I'm trying to get to is facts.

So, to the extent the HDMA provided guidances on what is a proper way

Page 141

to set a threshold or how far back in time to look at a dispensing history, those aren't parameters, those aren't data points that you have any particularized knowledge about or -- or command of, correct?

A. Yes, that's correct.

Q. And, what about the -- when, in fact, an order is in your system pended or identified or flagged, do you have any -- do you play any role in establishing what causes that event to -- to get investigated? Do you --

A. Me personally, no.

Q. Okay.

A. I do not.

Q. So, that's all sort of the functional operational part of your department that ultimately you have to rely upon Sergio and Shaun Abreu to -- to advise you of, make recommendations for your sign-off?

A. Yeah. And Frank O'Regan when he was with us also. I mean, he's, you know,

Page 142

previously a DEA investigator. So he was adding a lot of value in terms of training and bringing the staff up to speed and making determinations. He was making those determinations.

Q. Okay. So, are those the three sort of top people that you rely on for establishment of thresholds: Frank, Shaun and Sergio?

A. The threshold for?

Q. For identification of suspicious orders by size, frequency or pattern.

MR. McDONALD: And you're referring to internally, right?

MR. MIGLIORI: Yeah.

A. Yeah, so, the algorithm is based on the ERP system would initially set that. How that was set would be -- I don't think Frank was involved, maybe later, but mostly Shaun and Sergio.

Q. You understand that some -- so, some companies may set a threshold based on three months of prescribing history, while others may use 24 months. You

Page 143

understand that -- that there are different decisions that need to be made in terms of establishing a threshold?

A. Sure.

Q. And, in terms of what decisions are made relative to those parameters, is that something that Frank and Sergio and Shaun would do, or is that something you would be a part of deciding?

A. I was not part of deciding, but I believe it would come from the consultants and what they felt and were informing us were, like, industry standards.

Q. Okay. So, so it's fair to say when it comes to the specifics of algorithms and automated suspicious order monitoring, you relied upon the outside consultants and internally you relied upon the input from Frank O'Regan, Sergio Tejeda, and Shaun Abreu?

A. Correct.

Q. And based on that input from those four difference sources, and from

Page 144

time to time others, Tina, you ultimately would be the person that signed off on it, correct?

A. That's correct.

Q. But you would not, at that point, educate yourself to the level of understanding the inner workings of it. You were relying on this advice, correct?

A. That is correct.

Q. If you turn to page '625.

The HDMA recommends of distributors relative to employees working with controlled substances the following. It says: Individuals working in controlled substance areas should be screened and selected for their attention to detail, ability to recognize importance of accuracy, length of tenure with the company, and work ethic.

You agree with that, correct?

A. Yes. Any position.

Q. But controlled substance, you agree with me, has a heightened sensitivity within the company. That

Page 145

is --

A. Right.

Q. -- it is a highly restricted area of distribution and the potential for abuse and misuse is, by definition, extremely high, correct?

MR. McDONALD: Object to the form.

BY MR. MIGLIORI:

Q. As a Schedule II drug, correct?

MR. McDONALD: Object to the form.

A. A Schedule II, yes.

Q. It is recommended that employee training include a review of DEA rules and regulations.

Do you have today an employee training for those that work within Regulatory Affairs and within Verifications of the DEA rules and regulations?

And by training, I'm talking about formal training.

A. Could you define formal

Page 146

training?
Q. Classroom, didactic.
A. We've had classroom training.
Q. What -- where and who gave that training?
A. Ken Romeo, one of our premier -- prior employees, and we had a session with the HDA and some others a little over a year ago. I believe it was in October of '17.
Q. All right. When did Ken Romeo give a presentation?
A. Probably in -- I don't know for sure. I'm sorry.
Q. Were you at the company at the time?
A. I was, yes.
Q. So it's some time after July of 2013?
A. Yes.
Q. Were you there?
A. I was. For part -- part of it. Not -- it was a two-day training. So part of the sessions I was there. Maybe two or

Page 147

three hours of it.
Q. And, was it required?
A. Customer Verifications and the staff, yes.
Q. Was it required of anybody in Regulatory Affairs?
A. The staff in Regulatory Affairs.
Q. Okay.
A. That team, yes.
Q. And, when you say Verifications, that's Shaun and the folks that work for him, correct?
A. Correct.
Q. Okay. Was there a Power Point presentation of some sort, or --
A. Yeah, there were some Power Point presentations, I believe, yes.
Q. Did you present at all?
A. I introduced it. That's all.
Q. Other than that one presentation, do you recall any other -- set aside the HDA for a second.
Do you recall any other internal or recurrent Henry Schein training on DEA

Page 148

rules and regulations?
A. So, we have a monthly, you know, call, and there are discussions about the rules and regulations.
Q. Okay.
A. We referred to that earlier today.
Q. So, that's the -- those -- those generally have minutes and those minutes are kept on the share file?
A. Correct.
Q. And that's attended by Verifications and by Regulatory Affairs?
A. Not Verifications.
Q. Just Regulatory Affairs?
A. Yes.
Q. So, those monthly calls, to the extent they have DEA rules and regulations trainings, would only be for Regulatory Affairs folks, not for Shaun Abreu and the Verifications folks?
A. That's correct.
Q. Anything else that you can recall?

Page 149

A. I cannot.
Q. Who were some of the people that you know on the front line of Verifications that would be making the decisions today about whether an order should be further investigated, somehow it got pended automatically and requires further due diligence? Do you know any of those folks?
A. I know Shaun obviously for a long time and Lisa Matalon, who's his supervisor. I've met a few of the individuals, but I don't know them specifically by name or, you know.
Q. And Regulatory Affairs does not have any regular systematic training of those frontline staff members or Verification Team members in terms of their obligations under the Controlled Substance Act, correct?
A. I'm not aware.
Q. Okay. And then tell me about this October of 2017 HDA presentation.
A. So, again, we had a two-day

Page 150

meeting. Several individuals from the HDA came to visit. We had several, you know, guest speakers during the -- the process. And again, we addressed some of the ongoing regulations, some of the issues that they brought to our attention or they were, you know, giving us information on. And the staff from around the country flew in to be there.

Q. Is this in the aftermath of the Masters Pharmaceutical decision?

A. The Masters was discussed at that meeting, yes.

Q. And, was this sort of a industry advisory about the implications of what Masters means for day-to-day operation within the distributors?

A. Could you repeat the question?

Q. Sure.

Did HDA request to hold this presentation?

A. No. It was our -- it was our training and we invited them to speak on, you know, current topics, et cetera.

Page 151

Q. And the current topic of the end of 2017 was a recent decision in the Masters Pharmaceutical case, correct?

A. That is correct.

Q. And the implications of that decision in terms of obligations and compliance with the Controlled Substances Act as a distributor, correct?

A. Yes, sir.

Q. And one of the key issues in that decision was when to halt an order from shipment and when to ship, correct?

MR. McDONALD: Object to the form.

A. Yes. That's my understanding.

Q. Do you remember any of the -- the representations made of the HDA at that meeting in terms of the Masters decision, its implications, et cetera?

A. I think it was evolving at the time. So I don't know the specifics of what they presented. I'd have to see the presentations again, et cetera. But, you know, obviously this was something that

Page 152

they felt was becoming a big topic for discussion and potentially implementation.

Q. Okay. Did -- and when you say folks from all over the country came to attend --

A. Our team.

Q. Okay.

A. So our team in the different DCs.

Q. And that would be Regulatory Affairs?

A. Yes.

Q. Do you know if Verifications attended?

A. Management. Shaun was there, I'm sure.

Q. Okay. But the -- the frontline people that are actually getting the pended orders and doing -- sending out the letters, to your recollection, they didn't attend that training, correct?

MR. McDONALD: Object to the form.

A. Can't recall.

Page 153

Q. Okay. And, as a result of the Masters decision and/or this HDA presentation in the fall of 2017, did Henry Schein change any of its standard operating procedures or suspicious mon -- order monitoring systems?

A. We were evolving too, yes.

Q. So, what came of that? That is, what, if anything, do you attribute to a change in the Henry Schein compliance with the Controlled Substances Act as a result of the Masters decision, if any?

A. The decision of Masters was evaluated for a period of time. HDA was solidifying the discussions, and then we began to implement the process through the IT teams, et cetera. So, the implication was that orders that had pended, all of those were orders would be immediately reported to the DEA.

Q. Because they were, at the time they were discovered, deviations in size, frequency and pattern, correct?

A. Yes.

Page 154

MR. MIGLIORI: Exhibit Number 9.
(Peacock Exhibit 9, interoffice memorandum dated December 23, 2013, Bates No. HSI-MDL-00622244 to 00422250, was marked for identification, as of this date.)
BY MR. MIGLIORI:
Q. Exhibit Number 9 is a interoffice memorandum marked privileged and confidential to you and Jim Mullins from Ken Romeo.
You said Ken Romeo was the guy that gave a presentation of some sort, or a training of some sort to Regulatory Affairs, correct?
A. That is correct. He was on the team at the time.
Q. So, what was Ken Romeo's job title at this point in 2013?
A. I don't know exactly. He was a Regulatory Affairs specialist or senior specialist, something of that nature.
Q. Okay. But he worked underneath Sergio Tejeda?

Page 155

A. Tina and then Sergio at that time, yes.
Q. So he was part of the DEA Audit Team?
A. Correct.
Q. And, in December of 2013, who's Jim Mullins?
A. Jim Mullins, he's in charge of operations, and he was over Shaun Abreu.
Q. The subject line of this, December 23rd, 2013, "Regulatory Internal Assessment of Our DEA Suspicious Order Monitoring/Know Your Customer Systems and Procedures."
You agree with me that this is at the beginning of your tenure at Henry Schein, correct?
A. Correct.
Q. And this is certainly before the Masters Pharmaceutical decision came out in 2017, correct?
A. Correct.
Q. All right. Did you review this in preparation for today?

Page 156

A. I read it yesterday, yes.
Q. All right. And, do you recall, having read this yesterday, do you recall the meeting surrounding this?
A. Vaguely.
Q. And, the team that we're talking about, it says on December 2nd and 3rd of 2013, Ken Romeo, Tina Steffanie-Oak and Sergio Tejeda were on a -- were on site at Melville to complete a DEA compliance assessment of the Henry Schein Suspicious Order Monitoring/Know Your Customer systems and procedures.
Was this a routine audit or a regularly scheduled audit, to your knowledge?
A. I don't recall, but generally we do that occasionally.
Q. Okay. It says: A desk audit assessment was also performed with full cooperation of the Verifications Team for the Melville, New York and Reno call center locations over a three-week period.
What is a desk audit assessment?

Page 157

A. It's paper. So you're not asking individuals. You're asking for SOPs or procedures to review or --
Q. Okay. And this assessment was limited to January 1st of '13 through October 1st of 2013, correct?
A. Yes. That's what it says.
Q. That was the period of study?
A. Yeah, that's what it says.
Q. All right. So, at this point, the suspicious order monitoring program at Henry Schein is automated, correct?
A. To my knowledge, yes.
Q. All right. As far as your tenure at -- at Henry Schein, the system -- the SOM was always a computer -- computerized program, correct?
A. That's correct.
Q. I may have asked you this, and forgive me.
But, did you ever study the evolution that led up to the exist -- the program that existed at the time you got there?

Page 158

A. I did not.
Q. All right. It says: The goals of the audit were for the Verification and Regulatory Teams to better understand, anticipate and proactively respond to the challenges in the ever-changing regulatory environment by gaining an accurate understanding of past and current business practices and drawing informed conclusions about the future.
Is that your general recollection of the goal of the audit?
A. Mm-hm.
Q. Yes?
A. Yes, sir.
Q. The real value of this approach is to take us beyond traditional retrospective analysis and help us anticipate and react accordingly with future business needs and opportunity, such as impending roll-out of the national healthcare and potential emergence of concierge physicians.
The roll-out of the national

Page 159

healthcare, what is that? Is that Obamacare?
A. Yes.
Q. Did that change your suspicious order monitoring program in any way?
A. No.
Q. The second goal was to optimize potential investment in key regulatory business systems can improve the customer service, sales process and regulatory compliance without requiring large-scale changes. And third is a real world assessment of our business from a regulatory and verifications perspective.
What -- what do you understand real world assessments to be?
A. Very clear. Something that's taking an objective look across the whole process.
Q. You'd agree with me that real world is more of a realistic, on-the-ground, deeper-dive type understanding of the impact of, or the success of your program?

Page 160

MR. McDONALD: Object to the form.
A. Semantics again.
You know, I could see where, you know, it's an objective review, right. On the ground, you know, that's an objective review.
Q. All right. As a result of that audit by your DEA team, certain findings were made, correct?
A. Correct.
Q. One of the findings, which was ranked as a high risk, or high level risk, was that the current computerized suspicious order monitoring system is dated.
What did you understand that to mean?
A. That it needed to be refreshed.
Q. Why? What did they tell you?
A. So, the opportunity is that it had not been checked against the neutral nationally recognized medical database to cross-check its validity as truthful and

Page 161

accurate.
Q. So, it wasn't comparing it -- it was comparing itself to itself, right? It wasn't comparing itself to what was going on in the country?
A. Yes. That's what it says.
Q. And, why is that a high risk? Why is that a high risk for noncompliance with the Controlled Substances Act?
MR. McDONALD: Object to the form; mischaracterizes the document.
MR. MIGLIORI: Let me -- let me walk through that for a second, just so we have clarity.
BY MR. MIGLIORI:
Q. This is your DEA internal auditing team, correct?
A. That is correct.
Q. Their function is to perform internal audits to make sure you're in compliance with DEA regulations for controlled substances in this context, correct?
A. That is correct.

Page 162

Q. Why is this observation that the current computerized suspicious order monitoring system as of December of 2013 was out of date? Why is that a high risk? What risk does that pose?

A. So, I'm not familiar with the specifics of the findings, sir.

At the end of the day, you know, Henry Schein is -- tries to be continuously improving itself. If there hadn't been a refresh in the system in a number of years, I don't know what the history was 'cause I wasn't in the company at the time, but depending on the number of years, obviously there's opportunities for improvement, and I think that's what this is calling to -- to light is that we needed to improve.

Q. Okay. You agree with me that your own internal team considered the risk of not improving and updating the suspicious order monitoring system posed a high risk to the company?

MR. McDONALD: Object to the

Page 163

form.

A. Yeah, that's the conclusion of -- of the auditors.

And it's memo from Ken Romeo. So that was his opinion. Yes, sir.

Q. Okay. It was actually the opinion of his team, right? Ken Romeo, Tina Steffanie-Oak and Sergio Tejeda performed this audit, right?

A. Right.

Q. And they report to you, correct?

A. That's correct.

Q. And if they report to you and tell you that there's a high risk to the company because our computerized system is outdated, you took that seriously, right?

A. Yes, sir.

Q. And, that's something Henry Schein would do? That is, if it was not accurately or efficiently or in the real world operating to prevent, in this context, the risk of diversion of controlled substances, Henry Schein needed to, and would, immediately address it,

Page 164

correct?

A. It doesn't say that we were out of compliance. It says that we were -- could be better. So that's how I am interpreting this. And, so, the risk of our noncompliance or our -- our areas for improvement, this was one that we're taking seriously.

Q. So, in terms of the risk here, the risk here is to noncompliance, right?

MR. McDONALD: Object to the form.

BY MR. MIGLIORI:

Q. When your -- when your employees say that the risk of not updating the computer system is a high risk, they're telling you it's a high risk to the company because of noncompliance and liability to the company, correct?

A. It doesn't say that here, sir.

Q. What does high risk mean?

This is your company.

A. It means that there's opportunities for improvement. There's

Page 165

risk that's, you know, inherent here and we're going to look at trying to improve it.

Q. So, your interpretation of risk is that it just means you can do better?

A. That's one that we should focus on. The highest focus should be on these observations.

Q. All right. Let's go back to the first page, since I think we need a definition.

Under "Scope" it says: The ongoing assessment process is required by the Code of Federal Regulations and the Drug Enforcement Administration.

So, you understand that the DEA requires you to do these internal audits?

A. Yes, sir.

Q. (Reading) We are also requested by Henry Schein internal audit to conduct an annual assessment of our systems and processes.

So it's an internal policy, as well as a federal regulation, correct?

Page 166

A. Yes.
Q. (Reading) The assessment is a result of a cooperative effort of both the Regulatory and Verification Teams and took into account, 1, the identification of controlled substance and/or specific combinations of controlled substances that might potentially place Schein in a high risk category as a distributor of controlled substances for DEA regulatory actions.
Do you understand that to be the Auditing Team's definition of what the risk is?
A. Yes.
Q. That doesn't say there's room for improvement under high risk, correct?
A. No, I disagree, sir.
Q. That says this is just room for improvement?
A. It says might potentially, sir.
Q. Might potentially place Schein in a high risk of being out of compliance with the DEA. That's the definition of

Page 167

high risk.
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. Correct?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. At least in the document?
MR. McDONALD: Well, you misread the document.
MR. MIGLIORI: I read it twice.
MR. McDONALD: Well, and you added some words too that are not in the document.
BY MR. MIGLIORI:
Q. Go ahead. You can answer.
Is the definition of high risk by the team that reported to you: Potential -- potentially place Schein in a high risk category as a distributor of controlled substances for DEA regulatory action.
Would you agree with me that the

Page 168

risk they're referring to is DEA action against Schein?
A. Potential DEA action, yes.
Q. All right. And the risk -- the material -- the second is the materiality of controlled substance transactions in dollar thresholds and active product ingredient thresholds, computer system errors inherent or not presently accounted for, unintentional misstatements or omissions, risk control statistics as related to a level of training, potential errors, and known DEA hot buttons, such as the current street trends.
Those are all of the foci, focuses, foci of this audit, correct?
A. Yes, sir.
Q. All right. Now let's get back to the ways that Schein could improve itself.
The second one. Your Internal Audit Team reported to you directly in December of 2013, as you took on this new role, and said: Individual account

Page 169

thresholds for controlled substance purchase may be adjusted by Verifications without regulatory and/or appropriate medical guidance which could result in an inappropriate product release. Risk level high.
First of all, did I read that correctly?
A. Yes.
Q. What did you understand that to mean when your team reported that to you?
A. So, that there were some opportunities for improvement in the system that, you know, we needed to tighten the activities and the abilities to edit or modify.
Q. And if you didn't do that, there was a, as the document says, a potential risk for --
A. Yes.
Q. -- DEA action, correct?
A. Yes.
Q. And that risk, according to them, has been ranked as high, correct?

Page 170

A. Yes.
Q. All right. It says: Decisionmakers in the Verifications Department lack the medical training and qualifications to release controlled substances without regulatory/medical guidance in some instances.
Did you appreciate, when you took this responsibility in 2013, that a lot of -- some of the decisions being made at the verifications level to let a pended order go out were being made by folks that, at least in your department's assessment, weren't properly or sufficiently trained in medicine or regulatory compliance?
MR. McDONALD: Object to --
BY MR. MIGLIORI:
Q. That was one of their observations?
MR. McDONALD: Object to the form.
A. When I took the position, no.
Q. In December 2013, was that the

Page 171

observation of your Internal DEA Audit Team, that some of the Verification Team members who had the ability and were releasing pended orders to physicians were not sufficiently trained in regulatory and medical guidances? Is that what they told you?
A. That's what it says. Yes, sir.
Q. All right. That's one of the things, as you took this position, that you had to fix, correct?
A. Yes, sir.
Q. And that's something you've tried to do ever since, correct?
A. Yes, sir.
Q. And that's what a good company would do, correct?
A. Absolutely.
Q. It says: The Verifications Team is operating in a potential closed-loop system. All closed-loop systems would be considered potentially dangerous from a regulatory standpoint.
Then they give an example.

Page 172

A product release decision could be made solely within Verification Team without a secondary check. Justification letters submitted to Schein by physicians or accounts requesting controlled substance are not reviewed currently by medically trained personnel.
So, at least at this time, your auditing team was telling you that somebody solely within Verifications, without input from Regulatory, could take a questionnaire sent out to a doctor, take the information provided in that questionnaire, and make a decision on his or her own at that verifications level and release the order without ever involving anybody outside of Verifications.
Correct?
A. Yes, sir.
Q. And, according to at least these auditors, that posed a high risk, potential high risk for DEA enforcement action, correct?
A. Yes, sir.

Page 173

Q. They say: In fairness, Verification Team is doing the best they can with the limited training that they have received and many of our Verifications colleagues are new to the position of decisionmaker.
So, your auditing team in Regulatory Affairs was trying to say well, it's not that they were -- they had any bad intentions. These were good people trying to do the best they could, but just simply weren't trained enough.
Is that what you understood them to tell you?
A. Yes, sir.
Q. And then the same team said that: Internal documentation such as account notations performed by the suspicious order HS teams is not revealed to Regulatory on a regular basis.
And I -- I don't know what HS stands for.
Is it their Henry Schein suspicious order team?

Page 174

A. Yes.
Q. As opposed to the joint venture's?
A. Yeah.
Q. Is that why it's there?
A. I would imagine.
Q. So, and there's documentation of suspicious orders and notations to customer files within Verifications that, at this time, was not getting reported to or shared with your department, Regulatory Compliance, correct?
A. That's what it says, yes.
Q. And the recommendations made at the end of 2013 was to provide Verifications personnel with additional medical and dental training geared toward the recognition of common drug utilization and prescribing habits of clinical physicians, dentists and institutional accounts.
So, one of the recommendations of your internal team was to better train the -- Shaun Abreu's Verifications Team on

Page 175

mental and dental prescribing habits, correct?
A. Correct.
Q. Now, other than the, as I understand it, the monthly calls don't involve the Verifications staff, correct?
A. That's correct.
Q. And the HDA presentation was only to management of Verification. It was only Shaun Abreu's. It wasn't the staff, to your knowledge.
Correct?
A. It may have been Lisa Matalon, but yes.
Q. And the Ken Romeo presentation, is that this presentation that you talked about?
A. Yes.
Q. All right. So, when you said there was a training --
A. This is the training. That's correct.
Q. -- you're referring to this document.

Page 176

So, this --
A. No, not this document. The training that Ken did to the Verifications Team on the medical applications of the controlled substances.
Q. Got you.
So, as a result of this audit --
A. Correct.
Q. -- in this report, in this recommendation that I just read, Ken Romeo did a training for the Regulatory Affairs team, correct?
A. Yes.
Q. And did he do it also for the -- the Verifications Team?
A. Yes.
Q. All right. And that happened one time, to your knowledge?
A. One time, to my knowledge.
Q. All right. And you think it happened right after this December --
A. I can't say the time frame. Sorry. Can't recall.
Q. All right. But you only recall

Page 177

it happening once?
A. That's correct.
Q. It says as a second opportunity: Better define the limits under which an atypical account is processed into the regulatory system. The current gut feeling approach - in quotes - while laudable, leaves Schein exposed. Operating within a closed-loop is usually dangerous - exclamation point. During the assessment process, accounts were identified which needed further regulatory scrutiny, but were trapped within the closed-loop.
Do you recall after this audit any changes that were implemented and documented in SOPs to break through this closed-loop gut-feeling approach to when to involve Regulatory in these decisions?
MR. McDONALD: Object to the form.
A. I wasn't aware.
MR. McDONALD: Hang on. Object to the form.

Page 178

BY MR. MIGLIORI:
Q. Go ahead.
A. I wasn't aware.
Q. All right. So, at least as to this second recommendation or opportunity, you're not aware, from 2013 to today, of any change in standard operating procedure to increase the amount of communication and interaction between the Verifications Team and the Regulatory Affairs Department?
A. No. I'd like to take that question -- my answer back.
We have implemented a database system so that the documentation is shared. So when Customer Verifications enters any comments or notations, et cetera, that file is an active file. It's recorded and then it's transferred to the Regulatory Team, and then they see everything and there's much more transparency.
Q. Excellent.
What's that data -- what's that

Page 179

system called?
A. FileMaker Pro.
Q. And, when was that implemented?
A. Last year, maybe a little bit earlier, but completed last year.
Q. 2018?
A. Yeah.
Q. So, this recommendation in December of 2013, to the best of your knowledge, was implemented in 2018?
A. That's correct.
Q. That's, by my math, five years later, correct?
A. Your math is correct.
Q. All right. Last recommendation: Provide training to Verifications personnel on how to search Google and other databases so more accurate decision can be made.
Do you recall whether or not there were any changes in standard operating procedures to train Verification personnel on Internet-based searches?
A. I'm not aware that it was done.

Page 180

Q. Okay.
I show you on page 247: The current Schein SOPs allow for a three-time courtesy release of controlled substances before an account is required to produce full documentation of medical need on many controlled substances.
Did you understand that that was a standard operating procedure in 2013, that full medical need documentation was not required and that there was a three-time courtesy release permitted?
A. This is when I learned of it, sir.
Q. Did you have a concern when you learned of it?
A. Yes, sir.
Q. And, what was your concern?
A. Well, obviously, you know, the -- the opportunity is to improve to make sure that we have these without this courtesy release.
Q. What was the risk of continuing to have this three-time courtesy rule?

Page 181

And by risk I mean --
A. Our Know Your Customer data, sir, would not be complete.
Q. Okay. It says under that: If a diversion of controlled substances is taking place at the administration or nursing level of a Schein customer, the corresponding entity might hold Schein responsible for a lack of due diligence in our internal controls by releasing controlled substance through their individual DEA license.
So, it's a concern both of knowing your customer and of proper documentation, correct?
A. What do you mean by the documentation?
Q. Well, part of the DEA compliance. It's not just doing the job correctly, but also documenting it appropriately.
Correct?
A. That's correct.
Q. And that was -- those were both

Page 182

raised in this observation, correct?
A. Yes, sir.
Q. Number 5 it says: The current suspicious order monitoring system fails to account for two potential deviant order patterns.
It says: The current computer analysis system fails to detect a static order patterns of controlled substances and, B, a singular purchase order pattern. Both of these order patterns may be indicative of potential criminal activity and liability to Schein for a controlled substance product release without appropriate due diligence under a strict interpretation of the code.
Was that explained to you at the time, how those two types of potential suspicious orders were not being captured by the system?
A. I'm sure we discussed that. I don't recall, sir.
Q. Okay. The risk of that for potential DEA enforcement action was

Page 183

considered to be moderate.
Do you see that?
A. Yes, sir.
Q. And then recommendations were made to reprogram the current suspicious order monitoring system to detect static order patterns of a period of ten months or more of a singular controlled or combination of controlled substances utilizing the active product ingredient. Needs to be discussed with Verifications.
Do you know if that was ever done?
A. I believe it was, sir.
Q. Okay. And, who would have implemented that? That is, technically, who would have verified that? Who would have implemented it and then quality controlled it that it was working at the company?
A. I think a combination of the IT teams and potentially Regulatory and Customer Verifications, but all of the activities would be driven by the IT team

Page 184

in terms of, you know, managing the systems for that.
Q. And who, at this time in 2013, when this was being reported to you, who would have been the IT person that, if you recall?
A. Liaison currently for Regulatory is Gavin D'Souza, and I would venture that he was probably it back then.
Q. Okay. And, who would then -- who would he have interacted with within your department?
A. Sergio.
Q. Sergio, okay.
On the last page it says: Overall recommendations. Short-term. Enhance communication with Verifications Department.
That's something you said FileMaker Pro addressed in 2018, correct? The interactive?
A. That was the ultimate goal. I think that there was other enhancements prior to this.

Page 185

Q. You can't recall any of the specifics?
A. No.
Q. All right. Do you have any other additional medical training other than what Ken Romeo did right after this report, medical training of the verification decisionmakers?
A. I do not.
Q. And as you sit here today, you're not familiar with any verification decisionmakers recurrent training program at Henry Schein?
A. Yeah, they don't report to me. So I'm not sure.
Q. (Reading) Provide any additional training relative to account due diligence techniques.
Do you know if any additional training had been implemented at Henry Schein for due diligence techniques as a result of this audit in 2013?
A. I believe Ken Romeo's training, from both a medical and due diligence

Page 186

techniques, covered -- covered both topics.
Q. Okay. And so, to your knowledge, and to your recollection, anyway, the only -- the only training was whatever Ken did in that one- or two-day presentation after this report?
A. Correct.
Q. All right. It says in the long-term, there's a need to enhance the computer system and validate it.
Correct?
A. Yes.
Q. When was that ultimately done?
A. I'd have to go back and look. I don't know specifically off the top of my head, sir.
Q. So, at the end of 2013, if the SOM computer system was outdated, do you have any recollection in your tenure as vice-president of, among other things, Regulatory Affairs of when the system was switched?
MR. McDONALD: Object to the

Page 187

form.
BY MR. MIGLIORI:
Q. It would have happened during your time --
A. Yeah, there's been two re-tunes, I believe.
Q. Okay.
A. But I don't know the dates, sir.
Q. Okay. Enhance regulatory training on medical aspects of a field audit.
Other than what you've already described, are you aware of any other enhanced regulatory training on medical aspects?
A. Yeah, that would be the monthly reports where the auditors themselves discuss what they find and what challenges they've come across, et cetera.
Q. But that would only be within the Regulatory Affairs Department. It would not involve Verifications.
Correct?
A. Correct.

Page 188

Q. And then the last: A more proactive involvement by Regulatory in API and SOM systems on a continual basis.
Did you understand that ultimate long-term recommendation of your Internal DEA Audit Team was that Regulatory needed to get more proactive in the actual implementation of suspicious order monitoring systems and Know Your Customer obligations? Did you under -- appreciate that as the recommendation?
A. Yes, sir.
Q. And, since your role as vice-president in this area in 2013, is that what you've tried to do over the past five years, be more proactive in getting the Regulatory Affairs Department involved with the verification system?
A. In my opinion, yes.
Q. Okay. But as we sit here today, it is still possible for a pended order, or an order that is kicked out of the automated system as being potentially suspicious or suspicious and it is -- it

Page 189

is possible that that today, that order can be determined or deemed by a Verifications person to be okay to ship without Regulatory involvement, correct?
A. That's my understanding.
Q. Okay.
MR. MIGLIORI: Why don't we take a lunch break?
MR. McDONALD: Sure.
THE VIDEOGRAPHER: All right. Stand by.
The time is 12:18 p.m.
Going off the record.
(Luncheon recess taken.)
- - -
AFTERNOON SESSION
- - -
THE VIDEOGRAPHER: We are back on the record.
The time is 1:03 p.m.
- - -
(Peacock Exhibit 10, interoffice memorandum dated December 19, 2012, Bates No. HSI-MDL-00622252 to

Page 190

00622258, was marked for identification, as of this date.)
BY MR. MIGLIORI:
Q. Okay. We were talking about the Internal DEA Audit Team and their report to you in December of 2013.
The company produced to me several letters relating to that. So I'm just going to mark them and show them to you. I have a couple questions on each, but it's mostly to just authenticate these.
This is Exhibit Number 10. It's a similar letter to Exhibit Number 9.
That's Henry Schein interoffice memorandum privileged and confidential. This time it's just to you from Ken Romeo. It's dated December 19th. It says 2012, but I think that's a typo.
Right? You weren't there in 2012, were you?
A. I was not, no.
Q. Okay. So I assume this is December 19th of 2013. It talks about the

Page 191

same scope of the assessment.
This looks like it's more of the report of the verification side of things. And, I can't tell what the differences are.
Did you review this as well as the one you -- we previously looked at, number 9? And feel free to go back and compare them.
Is this part of what you reviewed yesterday?
A. Yes, sir.
Q. Okay. Did you identify, in reviewing them, differences or why there were two memos that were pretty similar, but written to different people?
A. Well, this was the internal memo to the department. So this was to me. And then this other one was the one that was to a broader audience, including the Verifications Team.
Q. Okay. So, you wouldn't -- this is dated earlier. This would have been December 19th of 2013. So this was

Page 192

probably the -- in looking at Exhibit 10, this is probably the first written report anyway of the assessment, correct?
A. Yeah.
Q. That you received?
A. The prequel.
Q. Okay. And, so, from this Exhibit Number 19 was written and distributed to not just Regulatory, but to Regulatory and to Verifications, correct?
A. Correct.
Q. Essentially the substance of it appears to be the same? It has the same reports of risk, the system being outdated. We talked about that already. And the parameters of the market segment, practice type and practice specialty do not cross-reference normal clinical drug utilization patterns.
So this was the observation that it didn't reflect what was going on nationally in the -- in the perimeters of your system, correct? That's consistent with the prior document, correct?

Page 193

A. Mm-hm.
Q. Yes?
MR. McDONALD: Well, I don't think he's on the same page you're on, Don. Show him.
A. You're on 10. Where are you reading from?
Q. So, I'm reading under the first findings. I just want to establish that these findings are generally the same findings, they're just to a smaller audience on the first document, correct?
A. That is correct.
Q. So, there's one observation about the computerized system being outdated and there's the observation here about the parameters set in the suspicious order monitoring program not reflecting national real world utilization patterns, correct? That's B.
MR. McDONALD: It says normal clinical.
Where are you reading?
MR. MIGLIORI: I'm actually just

summarizing this part B.
MR. McDONALD: Okay.
A. Yeah, I would agree that the documents are the same.
Q. Okay. We talked already about there being a need for more medical training.
There's one we didn't talk about, and I didn't go back to compare if it was in the earlier document. Number 3 it says: Accounting data reported to Regulatory and Verification underwriters as total sales may be materially misstated.
What do you understand that to be?
A. So, as defined in the description under A, there's material, like capital equipment, that could be added or put into the value of that account. So the total sales may be misstated because it's not just controlled substances. It could potentially be other medical devices or capital equipment.

Q. So, as it relates to DEA compliance, which was the focus of this audit, does that mean that it -- it was possible that some of the sales data being reported through ARCOS was misstated because it included not just controlled substances, but capital purchases?
MR. McDONALD: Object to the form.
If you know, tell him. But don't guess.
A. I don't know.
Q. Okay. You agree with me this is a finding related to DEA compliance. I mean, that's --
A. That's in the report, yes.
Q. Do you have any sense of why that would be in this report?
A. I don't recall, sir. I'm sorry.
Q. Okay. That's fair enough.
MR. MIGLIORI: All right. You can set that aside.
(Peacock Exhibit 11, interoffice memorandum dated December 30, 2013,

Bates No. HSI-MDL-00621989 to 00621996, was marked for identification, as of this date.)
BY MR. MIGLIORI:
Q. So, I think this version of the report, which is dated December 30th of 2013, is again addressed to you and to Jim Mullins and the Verification Team. It seems to report on the same issues.
First of all, did you review this yesterday in preparation for today?
A. No, I did not.
Q. Do you know what the difference is in this document from the other documents?
One apparent difference is the word "draft."
A. That's on the 23rd document also.
Q. Yeah, okay.
It seems to be written to the same people on Exhibit Number 9, the December 23rd letter. And I'm just trying to see whether you can help me understand

if there's anything in here that is different.
A. Honestly, I don't know. I mean, I would have to go word-by-word through the whole document. We could try to do that, if you'd like.
Q. No, I mean, if you didn't review it.
There are some things that, if you go to page 6 of the document, or the Bates number '996. In this particular document, there seem to be more margin notations of edits. You see the black line on the bottom of page 6?
A. Yep.
Q. And then I don't recall this component. It says: Background for assessment conclusion. What is Schein's statistical risks as determined from the success of current SOM system?
First of all, do you know what -- who would have inserted that comment or question?
A. It's on the other document too.

Page 198

Q. Is it?
A. Yeah.
MR. McDONALD: It's bullet 10.
MR. MIGLIORI: I'm sorry?
MR. McDONALD: It's bullet 10 on Exhibit 9.
BY MR. MIGLIORI:
Q. So, but it's presented a little differently. It doesn't have a 10 here.
I'm just trying to figure out is there anything -- is that --
A. Does it mean anything? I don't think so.
Q. I mean, were you trying to edit this document for yet a different audience, to your knowledge?
A. To my knowledge, no.
Q. Okay.
A. Not aware.
(Peacock Exhibit 12, interoffice memorandum dated February 14, 2014, Bates No. HSI-MDL-00622219 to 00622224, was marked for identification, as of this date.)

Page 199

BY MR. MIGLIORI:
Q. This is Exhibit 12. This is a February 14th, 2014 memorandum. It's got meeting minutes from a February 11th, 2014 review of the suspicious order monitoring audit findings that we've been talking about.
Tell me the context, if you can, of this meeting. Why was it held? Was it a regular meeting? Was it specific to this -- these findings, if you can recall?
A. Well, it's obviously the individuals that were -- the original audit was addressed to. So this was, I guess, to discuss and more collectively understand and ask questions.
Q. Okay. So, it was a meeting dedicated to this issue, as best you can tell?
A. Yes, sir.
Q. All of the folks that are listed as attendees are either from Regulatory or from Verifications?
A. Yes, sir.

Page 200

Q. Question mark.
A. Yes.
Q. Okay. So, now after the first finding about the current computerized system being outdated, there is a proposed preliminary action listed in italics.
Did you review this document yesterday?
A. No, sir.
Q. Okay. Look over the proposed preliminary action, if you will, on page 2.
A. (Perusing document.)
Okay.
Q. Did Buzzeo address this issue? Was it Buzzeo ultimately that you chose to address this issue?
A. I'm not a hundred percent sure, but I believe so. That's correct.
Q. Do you recall any other third party databases being tested, investigated, vetted as referred in this section?
A. I don't have specific knowledge,

Page 201

sir.
Q. You mentioned earlier the company, was it Hyman Phelps?
A. Yes. It's a law firm, sir.
Q. Okay. So, you can't recall any other input that you would have received to address this first finding other than what's represented here, that Ken and Tina go talk to Buzzeo?
A. Yeah, Buzzeo and possibly others, but I don't recall who all they spoke with.
Q. On the second discussion point about the need for training, medical and regulatory training for decisionmakers, the proposed preliminary action that Ken will develop a training program in 2014 that will be given to Verification and Regulatory. Will also provide training to HSAH and GIV as well. Will need to partner with the dental and animal profession to cover these specialties.
So, that's the 2014.
Does that sound -- does that

Page 202

give you a better sense of time when that training that Ken offered to those teams?
A. Yes, it follows logically.
Q. Okay. In discussing in this proposed preliminary action getting training to other joint venture groups, HSAH and GIV and dental and animal health, is it fair to say that these observations, these regulatory observations that the internal DEA group came up with related to not just the Henry Schein companies, but to also these joint venture groups?
MR. McDONALD: Object.
BY MR. MIGLIORI:
Q. Was the audit included HSAH, GIV and dental and animal health?
A. The audit did not --
MR. McDONALD: Object to the form.
A. The audit did not include those. It was just the corporate office that was done.
Q. Okay.
MR. McDONALD: And so that we

Page 203

have a clear record and not some confusion at a later date, dental is included with Henry Schein. It's Henry Schein Dental.
MR. MIGLIORI: Correct.
MR. McDONALD: That's not a separate JV.
BY MR. MIGLIORI:
Q. GIV is, right?
A. Yeah. Well, it's Henry Schein company.
Q. And HSAH, is that a Henry Schein company?
A. The animal health, yes.
Q. Okay. So, all of those were involved in this DEA audit, correct?
A. No, they were not.
Q. Okay. Why not?
A. This was a focus on the corporate system. They have their own systems.
Q. Okay. But the reaction to training, is there -- do you recall why a response to the recommendation included

Page 204

those, if they had separate systems?
A. I do not.
Q. Okay. Accounting data reported to Regulatory Affairs as total sales. We just talked about that. We don't really know what that means, as we sit here today.
The proposal for the three-time pend rule as listed here, Regulatory requested the Verifications use the 16 high risk controlled substances instead of the list of four controlled substances. It also suggested that they reduce the three-time pend to two times going forward.
Is that essentially what was recommended at this time?
A. Yes, sir.
Q. And, is that what happened? Did you change the three-time rule to a two-time rule?
A. I can't comment, sir. Not for sure.
Q. Okay. And, do you know whether

Page 205

or not they expanded the list of controlled substances in Verifications from the four that had been used through 2013 to the 16 high risk?
A. I don't know specifically, sir.
Q. Do you know even today what number of controlled substances --
A. I do not.
Q. Okay. On the finding related to the two types of deviate order patterns that were being -- that were -- were not being accounted for in the existing system, the proposed preliminary action says: In the short-term the correction can be addressed by using data warehouse reports to review customer order patterns.
What are data warehouse reports? And where are they kept?
A. It's in the JD Edwards system, sir, so it's the ERP system. It's a module that basically tracks inventory to customers.
Q. All right. So it's a inventory, not a sales --

Page 206

A. No, it would be tied to sales. It would show what was shipped to which customer.
Q. Okay. There's a question about how far back some of this data goes.
Do you -- do you know how far back the warehouse reports go?
A. I do not.
Q. But they exist in the JDE system, right?
A. Correct.
Q. So, if we were --
A. And we have off-site storage also.
Q. Okay. And what -- the off-site storage, is that hard copy storage?
A. No.
Q. Or redundant storage?
A. Redundant, yeah.
Q. Okay. It says: The long-term correction will be to add a new pend logic to the SOM system.
That is to change the algorithm, right?

Page 207

A. Mm-hm.
Q. And that Ken and Tina will use -- will discuss this issue with Buzzeo and the other consultants.
Do you know --
MR. MIGLIORI: Well, strike that.
I think we have another document that says when that happened.
Q. Do you have any further information about whether the Buzzeo system incorporated new pend logic? And if so, when that happened?
A. I don't know the dates, sir.
(Peacock Exhibit 13, interoffice memorandum dated February 17, 2014, Bates No. HSI-MDL-00499366 to 00499371, was marked for identification, as of this date.)
BY MR. MIGLIORI:
Q. This is Exhibit 13.
This is just another dated copy of the same meeting minutes from appears to be the same meeting on February 14th,

Page 208

but the memo is dated later than Exhibit 12.
Did you review this in preparation for today?
A. I did not.
Q. Is there a -- is there anything that jumps out at you as being different, in terms of who's getting this, why it's being produced, that you can educate me about?
A. The first one has "draft" on it. The same as before. So that's all I --
Q. So this one may be the final because it doesn't have the watermark?
A. Yeah.
Q. Okay. Fair enough.
MR. MIGLIORI: So, that's Exhibit Number 13. We're cruising now.
(Peacock Exhibit 14, DEA Compliance Update October 2, 2014, Bates No. HSI-MDL-00575077 to 00375079, was marked for identification, as of this date.)

Page 209

BY MR. MIGLIORI:
Q. Exhibit 14, this is an October 2nd, 2014 DEA compliance update.
Look at this and tell me if you've seen this before, or if you reviewed it in preparation for today.
A. (Perusing document.)
I can't recall this specific document, sir.
I don't believe I saw this yesterday. I certainly have received it in the past.
Q. Okay. You're listed as an attendee to this meeting.
A. Correct.
Q. Is this a regular meeting, based on the way this document looks?
A. Yes.
Q. And would this be a monthly meeting?
A. That's correct.
Q. Is this the monthly meetings we've been talking about?
A. That's correct.

Page 210

Q. So, if I were to look for and ask for the minutes of the monthly meetings that the Regulatory Affairs Department itself held, these were by phone, they would look something like this, to the extent they exist?
A. Correct.
Q. All right. 2014 hydrocodone gets rescheduled as a class -- a Schedule II controlled substance, right?
Do you recall that?
A. I do recall, yes.
Q. And, so, there were some logistical issues discussed in this particular meeting about keeping those records separate for the -- those that were sent out as Class III and those that were sent out as Class II, correct?
A. Mm-hm.
Q. Yes?
A. Yes.
Q. On the next page, there was a minute entry saying: Open Indy position senior regulatory specialist. Offer is

Page 211

made to candidate Beverly Butcher. Beverly joined the team October 15th to shadow Ken on several site visits prior to solo trips.
Who is Beverly Butcher? And what was she hired to do?
A. She's on the DEA Audit Team. So she's a senior specialist on that team.
Q. Okay.
A. Conduct audits.
Q. She was a certified pharmacy technician.
A. Yes, sir.
Q. Were any other members of the DEA Audit Team, at that time, trained in either pharmacy or medicine or --
A. Liam was with the Florida Board of Pharmacy. He was an inspector there.
Q. Okay.
A. For a number of years prior to joining us.
Q. And, do you know when he was hired?
A. I don't have the date, sir.

Page 212

Q. He's not -- he's not part of the team as of the date of this memo, correct?
A. Right.
Q. As of October of 2014, he wasn't yet hired?
A. No.
Q. Okay. So, is this the first person, to your knowledge, as you sit here today, is Beverly the first person on the DEA Audit Team that had this kind of specialized training in pharmacy?
A. Well, Ken's an MD.
Q. Okay.
A. I don't know specifically what Glenn's background training is.
But of the others, that's correct.
Q. Ken Romeo is a medical doctor.
And, what was he trained in?
A. I don't recall.
Q. Did he ever practice medicine?
A. I don't recall.
Q. Okay. And his title at this time, was he a member of this team, or was

Page 213

he a supervising person on this team?
A. He was a member of the team.
Q. Okay. And he's the one that designed, at the recommendation of the audit, the medical training program for the others, correct?
A. That's correct.
Q. And it's because of his training as a medical doctor that he was the one to do that?
A. Correct.
Q. Beverly was hired as a certified pharmacy tech to follow Ken around on site visits and then ultimately, as it seems to purport here, to do site visits for due diligence on her own eventually?
A. Which she's continuing to do today.
Q. Okay. Is Ken still there today?
A. No, he's not.
Q. When did he leave?
A. I don't remember the specific time.
Q. Okay. Site visits in 2014.

Page 214

Most site visits to be conducted by our team versus Pharma.

What does that mean? What is the reference to Pharma?

A. It's not clear to me. I'm not sure, sir.

Q. Who was doing site visits prior to this?

A. I don't know anybody but our team during my time.

Q. Did Verifications do site visits?

A. Not that I'm aware. I don't know.

Q. Well, this doesn't -- it's a capital PH too. So it doesn't -- is that a proper name? Do you have any inkling of what that could possibly mean?

A. Light bulbs are going off.

I believe there was a consultant that we used at some time.

Q. Okay.

A. But I'm not familiar with what the name was, et cetera, but I believe

Page 215

that was a Pharma Science or something, like that was a consultant the company had used prior.

Q. So, until this point, at least some of the site visits being conducted through 2014 were being conducted by an outsourced vendor?

A. That's my understanding.

Q. Okay. And, the meeting held here in October of 2014 discussed the concept of regulatory actually doing more of it directly instead of outsourcing it?

A. Which was why Beverly was hired.

Q. Okay.

A. Yes.

Q. Great.

And it said, after that, that the due diligence reviews were increasing, that the summer had slowed down, but the fall now ramping up. 45 new accounts were reviewed and about 15 percent require site visits at some point in time.

So, this process of catching up on due diligence, of being more proactive,

Page 216

is ramping up in this October 2014 time frame, correct?

A. Yeah. The activity's higher, for sure.

Q. Okay. So, help me understand it.

What is HSAH?

A. Henry Schein Animal Health.

Q. And you're saying that they do or they don't have a separate system?

A. They do have a separate system.

Q. But Regulatory is discussing it in its regular monthly meetings and reporting on it in their minutes?

A. In this case, yes.

Q. Okay. And, so, there is some responsibility, at least of the Regulatory Affairs personnel that meet on this monthly basis, to make sure that HSAH is compliant with respect to controlled substances, correct?

A. I said before --

MR. McDONALD: Object to the form.

Page 217

Go ahead.

A. As I said earlier, we provide consulting and auditing for them. So we would give them guidance, you know, do an audit of them, have some findings or whatever and make recommendations to them.

Q. In fact, the first one says: Still need help. Four weeks so far. What else can we do for them?

So, it's you're serving as a resource to them?

A. Guidance, yes.

Q. Okay. And it says: They are going to sign a letter that they are compliant, but they are not yet.

Do you know what that's referring to?

A. I do not. Don't recall.

Q. It says: Arthur is still having issues.

I -- do you recall what that's about?

A. No, sir.

Q. It says: Do we continue to

Page 218

support or send a report of issues of what needs to be done and then will return to do another audit? Procedures have major gaps and further training is required.

Do you recall what action you all took at regulatory at Henry Schein in terms of whether to just report out that the findings of their compliance, or lack of, or to actually do more? Do you recall what decision was made after this meeting?

A. I do not, with the specific decision, I don't remember.

Q. There's a reference: DEA could come back for another visit at any time.

Do you know what that is referring to?

A. I do not. I mean, the DEA comes to all of our -- of all of our DCs generally every year, and they -- it appears that they may have been there and they may come back. I don't know.

Q. All right. At the end of the meeting, there was a 2015 assignment for this DEA auditing group. It says:

Page 219

Evaluation reformatting our controlled substances processes. Think about restructure to take control of all DEA SOM, including customer service verifications for subsidiaries, joint ventures, set up hotline, do verifications here. What would it take? A subsidiaries need a valid suspicious order monitoring system. System compatibility may be an issue. And then charge back cost to the subsidiaries.

At any point after this October 2014 meeting, did you take on the responsibility of the subsidiaries and joint venture entities?

A. No, I did not.

Q. Do you know whether you performed any further audits for them as a resource or guidance?

A. Yes, we --

Q. After this.

A. Absolutely.

Q. And, did they change their systems and update them and re-tune them?

Page 220

A. Continually improving. There's been process changes, et cetera, staffing changes, et cetera.

(Peacock Exhibit 15, email chain ending May 7, 2018, with attachment, Bates No. HSI-MDL-00572919 to 00572922, was marked for identification, as of this date.)

BY MR. MIGLIORI:

Q. Exhibit 15. It's an email exchange of May of last year between you and Sergio Tejeda on the Henry Schein suspicious order monitoring system memo.

Did you review this document yes --

A. I did.

Q. I'm sorry. You did?

A. I did.

Q. Okay. You recall -- do you recall, actually, this interaction --

A. I do.

Q. -- when it happened?

A. Mm-hm.

Q. Okay. In reading e-mails, you

Page 221

start from the back going forward. So, if you look at the bottom of page 1 Sergio wrote to you, he said: We came to see you and talk to you about the SOM memo. Wanted to share draft. See if this is what you're looking for.

Do you recall why you asked him to put together a memorandum in May of 2018 relating to the suspicious order monitoring system at Henry Schein? What was the context of this email exchange?

A. It was probably part of the budget request maybe. I don't recall.

Q. There's a reference to a summary for Stan.

Who's Stan?

A. Stan Bergman, the chairman and CEO of the company.

Q. Okay. And, so, you were reporting to Stan on the current system, as well as some of the history of the current system?

A. Yeah, giving him background, yeah.

Page 222

Q. Okay. The revised memorandum talks about how Henry Schein has a robust suspicious order monitoring system which we believe to be unique in the industry, it being two-pronged, it was designed to fully address the needs of our complex business model.

It says: The first prong of the SOM gauges orders according to active ingredient. The second prong monitors orders based on normalized active ingredient being ordered in the internal peer classification.

As you sit here today, do you have an understanding what that means?

A. Somewhat, yes.

Q. Is this input that probably came from Buzzeo that you're relating?

A. Yes.

Q. All right. It says: Our current SOM was designed in conjunction with BuzzeoPDMA in 2018 and implementing was completed in 2009. At that point, there were no service providers that could

Page 223

offer an established solution. Companies were forced to develop their own.

Is that history as being related by you to Stan supposed or intended to be a history that you got from Sergio?

A. Yes.

Q. 'Cause you obviously weren't there at the time?

A. From Buzzeo.

Right.

Q. Okay. It says: Of the three major drug wholesalers, only Amerisource uses the Buzzeo system. Similar to Henry Schein, they implemented a traditional model and are now looking to migrate to the SOM cloud solution. Cardinal and McKesson developed their own SOM systems in-house. What we've learned at the same level that Buzzeo does support all three with customer site visits.

Did you have much interaction, as head of Regulatory Affairs, with the other what they call the big 3 distributors?

Page 224

A. No. No, sir.

Q. Did you ever have any interactions with them relative to the effectiveness of suspicious order monitoring programs or thresholds?

A. Personally, no.

Q. Did somebody in Henry Schein have a regular interaction with any of the big 3 suppliers?

MR. ASFENDIS: Just note my objection to form.

A. Not that I'm aware of other than at a meeting like the HDA where there might be presentations of, you know, ongoing activities or regulations or et cetera or they may be present in speaking.

Q. So, to the extent -- with respect to the accuracy of the statement that I just read, or paraphrased, that -- that's information you got from Sergio?

A. Correct.

Q. That's not information you learned yourself?

A. That's correct.

Page 225

Q. All right. In order to insure compliance, your processes were audited in 2012. So there was a 2012 audit of the new system that was started in 2009 and implemented through 2010 and '11, correct?

A. Mm-hm.

Q. Did you ever see the reports of that audit in 2012?

A. No.

MR. McDONALD: Object to the form.

BY MR. MIGLIORI:

Q. That audit was a collaboration of Verifications, Legal, Internal Audits and Regulatory.

Was Legal involved in the 2013 audit, to your knowledge?

A. Well, I report to Legal, right. So I report to -- to the Legal Department. So, by inference, I guess I give it to my boss.

Q. Okay.

A. I don't know the specifics about this.

Page 226

Q. To the extent, in terms of the audit that when you were there in 2013, to the extent Legal was involved, it was involved as it related to regulatory compliance and day-to-day operations, correct?

MR. McDONALD: Object to the form.

A. Could you repeat?

Q. Sure.

The legal involvement, when you say you report to Legal, the legal involvement on audits like the one we talked about earlier in 2013, the legal involvement, to your knowledge, was relevant -- was related to regulatory compliance issues, correct?

MR. McDONALD: Object to the form.

BY MR. MIGLIORI:

Q. As opposed to ongoing litigation or things like that?

MR. McDONALD: Object to the form.

Page 227

A. Can't answer that. I don't really, you know, understand. Or, you know, assume yes, but I don't know.

Q. All right. You weren't aware in 2013 of any legal action that -- that the Legal Department was consulting with you on?

A. No, sir. Not at all.

Q. The memo that -- that was prepared for you to share with the CEO of the company then goes on to say that one of the main findings, in the 2012 audit: One of the main findings was that the suspicious order monitoring system should be returned periodically -- re-tuned periodically so that algorithms and coefficients can be adjusted, if necessary, to insure optimal sensitivity. This was also highlighted during the internal assessment conducted by Regulatory in December of 2013.

Is that reference to the 2013 assessment the one that we've been talking about, that is the one conducted by --

Page 228

A. It's the only one that I'm aware of, sir.

Q. Okay.

A. Yep.

Q. (Reading) Partnering with industry recognized consultants, Henry Schein suspicious order monitoring was re-tuned in phases. The first one was completed on May 1st, 2015.

Does that refresh your recollection as to when the first SOM automated re-tuning was completed?

A. Yes, it makes sense.

Q. All right.

A. Yeah.

Q. So, all of the recommendations that we saw about the system being out -- outdated, the first re-tune would be referring to this May 1st, 2015 re-tune?

MR. McDONALD: Object to the form.

MR. MIGLIORI: Let me state that differently.

Page 229

BY MR. MIGLIORI:

Q. One of the findings of the 2013 audit, the first finding, had to do with the computerized system being outdated.

Do you recall that?

A. Yes, sir.

Q. This reference in your memo to the CEO of the company said that in addressing that issue, the first re-tune with input from Buzzeo was completed in May of 2015, correct?

A. That's what it says, yes.

Q. All right. And the final phase went live on November 1st of 2017.

Is that correct?

A. Yes, sir.

Q. Do you know what the final phase was?

A. The difference, I don't, sir.

Q. All right. So, with respect to findings in 2012, then again in 2013, according to this memorandum, as it related to re-tuning and fixing the -- the SOM, updating the SOM computerized system,

Page 230

the first re-tune first phase was completed in May of 2015 and the final phase was completed November 1st of 2017, correct?
A. That's what it says. Yes, sir.
Q. (Reading) In order to insure compliance with the current requirements and regulator's expectations, we have contacted three of our DEA consultants to conduct another audit on our SOM and KYC program. One of them is Buzzeo, who has an established SOM program compliance audit. We're also discussing audits with Quarles and Brady and Cadwalader Wickersham and Taft and are waiting for their proposals.
Do you recall the outcome of reaching out to the other two outside vendors?
A. We just decided to go with Hyman Phelps.
Q. Okay. Which is a fourth one?
A. Yes.
Q. Okay. And, tell me what you've

Page 231

retained Hyman Phelps to do.
A. They came in to overview a lot of the due diligence questionnaire, communications with the customers, kind of overview the SOM process as well.
Q. Okay. When did you hire them?
A. It was the fall. I'm not sure exactly the month.
Q. The fall of 2018?
A. '18, yes, sir.
Q. And, have they completed their assessment?
A. Yes, they have.
Q. And, is there a report of that assessment?
A. Yes, there is.
Q. And, have you seen that report?
A. I have.
Q. And, did you review it yesterday?
A. I did not.
MR. McDONALD: You did not.
A. I did not. Sorry.
Q. It's not one of the documents

Page 232

you brought with you to the meeting?
A. No.
Q. I can represent to you it's not one of the documents that's been given to me today. So I'll have to ask you from your memory.
What were the outcome or findings of that report?
MR. McDONALD: Well, hang on.
So, I need to -- before he discloses that, I need to visit with my co-counsel to see if we're claiming privilege on that since that was -- that report is done by a law firm.
MR. MIGLIORI: Well, can I ask a couple foundational questions on it, to his knowledge? In other words, to your knowledge --
MR. McDONALD: Quarles and Brady is a law firm, as you know.
MR. MIGLIORI: So are two of these others.
MR. McDONALD: Correct.
MR. MIGLIORI: And, so, let me

Page 233

ask a few questions, and then I will respect that request. I won't ask about the substance of it.
BY MR. MIGLIORI:
Q. As you report to the CEO of the company in this email, you're saying that in order to insure compliance with the current requirements and regulator's expectations, we have contacted three of our DEA consultants to conduct another audit on our SOM and Know Your Customer program.
That was the purpose of reaching out to outside consultants, correct?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. That's what you report to the head of the company, correct?
A. Yeah. So, we were looking to continuously evaluate and improve our systems.
Yes, I'm reporting to him about that.

Page 234

Q. So, the retention of the outside consulting firm at issue in this memorandum is for the purpose of making sure that you were in compliance with regulatory requirements for controlled substances, correct?
MR. McDONALD: Well, object to the form.
A. No, I don't think it's -- I -- I beg to differ.
It's semantics again, so.
Q. Correct me.
A. I think it's really about the fact that we have systems we feel we are compliant and we're looking to button up any loose ends that we might find.
So, that we were not in compliance, I disagree with that comment.
Q. And, if I suggested you weren't in compliance, I actually agree with your disagreement. I didn't mean to.
A. Woo-hoo.
Q. More simply stated, this memorandum to the CEO of the company says

Page 235

that it is your intent to talk to Buzzeo and two other companies.
And these two other companies are law firms; aren't they? Is Quarles and Brady a law firm?
A. Yes.
Q. And Cadwalader Wickersham and Taft, that's a law firm?
A. Yes.
Q. So, your effort to, quote, insure compliance with the current requirements and regulator's expectations, was addressed by reaching out to these outside vendors, correct?
MR. McDONALD: Object to the form.
A. We're be looking --
MR. McDONALD: Object to the form.
A. We're looking for confirmation of what we have in place is meeting the requirements and if there's areas of improvement, we would be engaged in the process to fix them.

Page 236

Q. And specifically, when you talk about meeting your requirements, you were talking about going to these DEA consultants to conduct another audit on our suspicious order monitoring and Know Your Customer programs. That's the requirements that you're referring to, correct?
A. That's the heart of our systems, yes.
Q. All right. And, so, you reached out to Buzzeo and two law firms, as you were representing here, at least in May of 2018, and you ended up going with yet a fourth option, another law firm called Hyman and --
A. Phelps.
Q. Phelps.
MR. McDONALD: Object to the form.
There's no representation in here about anything to the CEO. This is a draft email from Sergio to him of what he might send to the CEO.

Page 237

MR. MIGLIORI: Right. I --
MR. McDONALD: No.
MR. MIGLIORI: I'm perfectly comfortable with your --
MR. McDONALD: Okay.
BY MR. MIGLIORI:
Q. You don't know if this ever got cents, or do you know if this ever got sent?
A. Sitting here today, I'm not sure. I believe it did, but I --
Q. Okay.
A. I wouldn't swear on a stack of bibles right now.
Q. Okay. Certainly the intent was to prepare this memorandum for you to share with the CEO of Henry Schein, correct?
A. Yes.
Q. All right. And it was your intent in sharing this information with the CEO of Henry Schein to inform him that, as a result of the 2012 and 2013 audits, and as a result of the re-tuning

Page 238

that was done in 2015 and 2017, it was your belief that it was necessary to vet outside vendors to make sure that you're all in compliance with the current requirements and regulator's expectations as it related to suspicious order monitoring programs and Know Your Customer programs, correct?

MR. McDONALD: Object to the form.

Go ahead.

A. So, the statement that it was necessary, I'll object to that.

I think it's best practices. At the end of the day, it's best practices to evaluate your systems, to look to improve them, and, you know, make sure that they're the best they can be.

Q. Okay. It wasn't necessary, but you were recommending it?

A. Of course, yes.

Q. All right. And, whether you sent this memorandum to the CEO of the company, you, in fact, did interview three

Page 239

companies and a fourth company for this purpose of finding a consultant to insure compliance with current requirements and regulator expectations as to suspicious order monitoring and Know Your Customer programs, correct?

A. We did.

Q. All right. And, ultimately, as a result of that process, you went with Hyman and Phelps, correct?

A. Yes.

Q. And you were personally involved in the retention of Hyman and Phelps?

A. I believe I signed the contract, yes.

Q. And you believe you signed that contract in the summer of 2018?

A. Early fall.

Q. And, so, a contract of retention exists for this particular assignment?

A. Statement of work for the activity that we requested and a price.

Q. And a statement of work was consistent with what I just read?

Page 240

MR. McDONALD: Object to the form.

If you know, tell him, but don't guess.

A. Can't guess. I'm not sure a hundred percent.

Q. Okay. And, did they -- they performed an audit as a result of your retention, correct?

A. Yes, they did.

Q. And that audit was an on-site audit?

A. Yes, sir.

Q. Did it also -- was there a term -- was it also a desk audit?

A. I'm not sure.

Q. Did they go out to the distribution centers?

A. No, sir.

Q. Was it just in Melville, New York?

A. Yes, sir.

Q. Did they go to any Verifications Team in Reno?

Page 241

A. No, sir.

Q. Did they have anybody from the various national offices come in to Melville for the audit, to your knowledge?

A. I'm not sure, sir.

Q. Did they review due diligence files?

A. That, I'm sure they did.

Q. Did they review the pended order database?

A. Can't say for sure.

Q. Did they review the suspicious order monitoring reporting?

A. Can't say for sure.

Q. Do you know whether they reviewed the ARCOS data reports?

A. Can't say for sure.

Q. In the end, they issued a report which they sent to you?

A. I believe they sent it to Sergio and to Frank O'Regan and I was copied, sure.

Q. And they sent it to Sergio and Franco as --

Page 242

MR. MIGLIORI: Strike that.
Q. Did Sergio and Franco --
MR. McDONALD: It's Frank. Not Franco.
MR. MIGLIORI: Frank. Sergio and Frank.
BY MR. MIGLIORI:
Q. Did Frank and Sergio serve as the facilitators cooperating with their --
A. Absolutely, yes.
Q. And, so, the report was sent to them.
And, was action taken as a result of their report in terms of, as we saw in the last few documents, proposed changes?
MR. McDONALD: You can say yes or no, but don't reveal any content until we get --
MR. MIGLIORI: It's a yes-or-no question right now.
A. I believe so.
Q. Okay. And, were you part of the process of coming up with those

Page 243

recommendations?
A. No, sir.
Q. Were you part of the process of deciding whether or not to implement those recommendations?
A. No, sir.
Q. All right. If I pursue the findings, are you going to want to wait until you can talk to your client?
MR. McDONALD: I do. I want to --
MR. MIGLIORI: All right. Then we can put that on the record and we'll deal with it after you've let me know after talking to your client. I want to pursue it.
MR. McDONALD: We can take a break right now.
MR. MIGLIORI: We can do it after the break. We can plow through some more stuff.
MR. McDONALD: That's fine.
MR. MIGLIORI: But I do represent, so you know, that I don't

Page 244

have it. I have a document from you saying that you've substantially complied with discovery, and so I just -- obviously it's something I want to further explore. And we could do that whenever.
MR. McDONALD: Sure.
MR. MIGLIORI: Okay.
(Peacock Exhibit 16, email dated July 19, 2018, with attachment, Bates No. HSI-MDL-00433692, was marked for identification, as of this date.)
BY MR. MIGLIORI:
Q. Exhibit 16. This is a July 19th, 2018 email from you to Sergio Tejeda regarding DEA slides for July 2018 Henry Schein Incorporated board of directors advisory committee meeting.
Did you review this in preparation for today?
A. Yes, sir.
Q. And, do you recall what the context was of this meeting?
A. So, I am part of a subcommittee

Page 245

of the -- including the legal representation, my boss, and four board members. We call it the Board of Directors Regulatory Compliance Committee. The compliance officer is also part of that, when I talk about other compliance issues, and I kind of give them the state of affairs of other DEA compliance process.
Q. Okay. Can you repeat for me the name of the committee?
A. The Board of Director -- BOD Regulatory Compliance Committee. Subcommittee, because it's not a full board.
Q. Okay. It's a subcommittee to the board of directors of the company?
A. That's correct.
Q. All right. And, is there a chairperson of that committee?
A. My boss, Walter Siegel, and Joe Herring of the board.
Q. H-E-R-R-I-N-G?
A. That's correct.

Page 246

Q. Okay. And, who are the members of the committee?
A. Michael Ettinger, Nancy Lanis, Kurt Kuhn, who's a board member. I don't know her name. Carol Raphael? Carol Raphael.
Q. Okay.
A. And I'm struggling with the last one.
Q. And you?
A. And me.
Q. Anyone else from Regulatory --
A. No.
Q. -- or Verifications?
Okay. So, there are some board members and there are some, are the others mostly senior-level management?
A. Yes.
Q. Okay. And this subcommittee deals with all types of regulatory compliance, not just controlled substances?
A. Yes, everything. All compliance issues and regulatory issues.

Page 247

Q. Certainly within that, it includes the DEA and -- and controlled substances, correct?
A. That's correct.
Q. And, so, Sergio, did he prepare these slides for you for purposes of this presentation?
A. Yes, he did.
Q. Does this subcommittee meet regularly?
A. Quarterly.
Q. And, do you present quarterly of your -- your events of the quarter?
A. Not always. So it kind of depends on flow of the meeting, the agenda topics, et cetera.
Q. Okay. Do you know why you were reporting in July of this year to the board? Was there a particular impetus for this report?
A. I don't recall, no. I mean, it's one of the -- one of the topics, right, key topic, quality issues, regulations like I mentioned in the

Page 248

beginning of the morning about the medical device regulation in Europe, that would be something that I reported to them on.
Q. Is it possible in that the memorandum that we were just talking about that you and Sergio were working on back in May to be presented to the CEO about hiring an outside vendor, is it possible that that was one of the issues at this quarterly meeting?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. Hiring Hyman Phelps?
MR. McDONALD: Object to the form.
A. Hiring for the -- I'm -- the board, no.
Q. Yeah.
Would this meeting have involved any of the issues in the prior exhibit of going to an outside vendor in order to get another auditor assessment?
A. I believe this was just about

Page 249

communications about what the rules were, where the -- where the -- where we stand, et cetera. There was no ask or specific action item that we were taking.
Q. Okay. This flowchart on page 1 that's up on the screen now: DEA Compliance Processes: Follow the order.
Do you recall who put this together?
A. Sergio.
Q. Did he do it for this meeting?
A. I can't say for sure. He may have had it for other purposes, but --
Q. Okay. And, was this part of the -- the, let's see what word you've used. The improvement or the re-tuning of the system. Is this the system as it existed in July of 2018?
A. Yes, I'm -- that's my understanding. Yes. This is current.
Q. And then this history on page 2 that's provided, is this a history that Sergio put together?
A. Yes, sir.

Page 250

Q. So, he talks about setting up the suspicious order monitoring system in 2018, its implementation being completed in 2009.

Is that consistent with your understanding of how things evolved?

A. From the documents that I've seen.

Q. Okay. That the 2012 Buzzeo audit resulted in some recommendations.

There's no reference here to 2013 internal audit, is there? Or am I missing it?

Is that -- is this develop multiyear plan for implementation?

A. I think it could be understood there.

Q. Okay. The 2015 first phase re-tuning was completed by Richmond Analytics?

A. Yes.

Q. Does that sound right?

A. Yes.

Q. And Buzzeo?

Page 251

A. Yes.

Q. So, that May phase 1 implementation was both Richmond Analytics and Buzzeo?

A. That's correct.

Q. The November 2017 final phase implementation of the re-tuning of the suspicious order monitoring program at Henry Schein was the Profit -- was done by ProfitOptics? Is that the second phase?

A. Yes.

Q. And then 2018 it says: Schedule by year-end to receive a consultant assessment of our DEA compliant process. Assessment will be focused on our Know Your Customer Due Diligence and Suspicious Order Reporting processes.

Is that the Hyman Phelps --

A. It is, sir.

Q. -- audit?

A. Yes, sir.

Q. Is it fair to say the Hyman Phelps audit focuses on those two issues, the Know Your Customer and suspicious order monitoring processes?

Page 252

A. Is it fair? Yes, sir.

Q. That's way too involved.

Let's go to the next one, page 4.

Are these -- there's a list of some penalties paid by Henry Schein. All but one predates your involvement. And the one after which you're hired seems to be outside of your system.

Is that fair to say?

A. That is correct.

Q. So, I assume you have no knowledge or information about Henry Schein's warning letter in 1998 from the State of Ohio, correct?

A. That would be a correct assumption.

Q. All right. But you did keep track of and report to the company the much more substantial fines and penalties paid by the other distributors of controlled substances, correct?

A. Yes.

Page 253

Q. And I assumed -- well, I don't want to assume.

Why -- why would you report that information to the -- the board, or the subcommittee?

MR. McDONALD: Object to the form.

BY MR. MIGLIORI:

Q. What was the purpose of including that in this report, if you recall?

A. Awareness to what's possible.

Q. The risk?

A. Yes.

Q. All right. Do you recall actually giving this presentation?

A. Yes.

Q. Did anything come of that presentation in terms of changes or outcomes or new programs?

A. Not specifically that I recall, no.

MR. MIGLIORI: Let's do this one quickly. This is number 17.

Page 254

(Peacock Exhibit 17, email chain ending July 18, 2018, with attachment, Bates No. HSI-MDL-00209427 to 00209428, was marked for identification, as of this date.)

BY MR. MIGLIORI:

Q. This appears to be the same document. I probably should have just used this one.

So, this is a email exchange with Nick DeLucia and Francis O'Regan with the presentation that we just walked through.

Do you recall why they were involved or how they were involved with preparing this presentation?

A. Well, they work for Sergio. So it's very likely that they actually did the assembly of some of the content.

Q. Okay.

A. Or maybe all of the content.

Q. Sure.

It says July 18th. It says: Frank - Nick's writing to Frank - This was

Page 255

the final version that I sent to Jeff. There was one clarification I sent him in an email regarding the attributes to create a customer peer group in the SOMs. It's now practice size rather than practice type.

What's a customer peer group, if you know?

A. I don't know specifically. I would assume it's the type of practice, but I can't assume.

Q. All right. If you can, just jump ahead to page 2.

This one has a chart in it that the other one didn't have, and it appears to be a Know Your Customer Due Diligence graphic.

Do you see it?

A. I think it was on here, but it got cut off.

Q. Yeah, that's what I'm trying to figure out. Is it -- that's how it was produced to us. Let's use the one that we can actually see.

Page 256

A. Yeah.

Q. Just briefly.

A. Okay.

Q. So, in this history of Schein's SOMs and Know Your Customer Due Diligence development, is it fair to say that you've separated out, at least for this presentation, the two components, that is the computerized system and threshold model to kick out potentially suspicious orders, correct?

A. Correct.

Q. And then the Know Your Customer Due Diligence requirements to be compliant with DEA regulations, correct?

A. Yes.

Q. And the Know Your Customer Due Diligence has different -- it's not just triggered by the statistical computerized model, correct?

A. Could you repeat the question?

Q. Yeah.

The Know Your Customer obligations are ongoing. They're not

Page 257

triggered by the -- only by the statistical computerized suspicious order monitoring system, correct?

A. That's correct.

Q. In fact, according to this presentation, that there is Know Your Customer obligations at the onboarding of a new customer, bringing on a new customer, correct?

A. Yes.

Q. There's Know Your Customer Due Diligence in verifying all of the licenses of the customers, correct?

A. Yes.

Q. The due diligence reviews are due diligence reviews that are not only triggered by events or orders, but there is a -- there is a recommendation by your -- your internal team that audits happen on an ongoing basis, even of existing customers, not just new customers.

Correct?

A. Could you restate that? I got

Page 258

confused.
Q. Sure.
The due diligence review is not just for onboarding or for a triggered suspicious event, correct?
MR. McDONALD: Object to the form.
A. Not just for onboarding or triggered?
Q. Right.
There is an obligation to be compliant, to have a continual knowledge and a present knowledge of your customers dispensing history?
A. That's correct, yes.
Q. Okay. And that includes things like site visits, as this graphic --
A. May include site visits.
Q. Okay. I wasn't sure why that was in one and not the other. But I should have asked you that.
A. Yeah. I actually think it was on this one and just got blown off however it was reproduced or whatever.

Page 259

MR. MIGLIORI: Let me do a couple more documents. Then we'll take a break, and then we'll finish up.
(Peacock Exhibit 18, email chain ending January 26, 2016, Bates No. HSI-MDL-00156897 to 00156899, was marked for identification, as of this date.)
MR. MIGLIORI: This is Exhibit 18.
(Pause.)
BY MR. MIGLIORI:
Q. I want to show you Exhibit 18. This is an email exchange between Tina Steffanie-Oak and Beverly Butcher regarding Richard Mason.
Did you review this document in preparation for today? It also includes an email from DEA, a diversion investigator.
A. I don't recall yesterday.
I'm sorry.
Q. All right. If you start from the back, do you know Donna Tomaselli?

Page 260

A. Not personally.
Q. Okay. Do you understand, at least from her signature line, that she's a compliance analyst --
A. Yes.
Q. -- Americas?
A. Yes.
Q. Is that sort of a frontline person on due diligence?
A. Yes.
Q. She wrote to William Crawford, that you'll see is a DEA diversion investigator, right?
Do you actually know William Crawford?
A. I do not.
Q. Okay. She writes: Enclosed is the requested information for Richard Mason. Please confirm your receipt.
And he wrote back and, that is the DEA agent, investigator: I have some information concerning Dr. Richard Mason that needs to be brought to the attention

Page 261

of Henry Schein compliance. Should I send it to you? If not, please let me know who to send it to.
And then she responds: Yes, send it to me and Shaun as well.
Does this refresh any of your recollection whether or not you may have seen this before?
A. I don't recall, no.
Q. All right. The DEA investigator writes to Donna and now to Shaun Abreu, both from Verifications: Here in Ohio doctors that dispense are required to report to the Ohio prescription drug monitoring program, OARRS. OARRS reports that Dr. Mason has never reported any dispensing.
Within your system, you agree with me that Henry Schein is required in knowing its customer to do verifications both at the federal and state levels of -- of their customers, correct?
MR. McDONALD: Object to the form.

Page 262

A. Yes.
Q. Okay. And that would include the OARRS system in Ohio, correct?
MR. McDONALD: Object to the form.
A. This predates me. I'm not familiar with the OARRS system.
Q. Well, this is 2016. So it doesn't predate you.
You may not be familiar. I accept that. But this doesn't predate you, correct?
A. No. I was reading the 2012 order.
Yes.
Q. Okay. So, the DEA writes: I ran across -- I ran ARCOS and found that Mason ordered 10,000 hydrocodone since 2012. I went to his practice to inspect his records, which he could not produce. I gave him time to find the records and arranged a time to return for inspection a few days later. The state pharmacy board went to inspect his records. At which

Page 263

time, Dr. Mason admitted to them that he lied to me and he had no dispensing records because he was addicted to hydrocodone and had been ordering hydrocodone from your company for his personal use. If you need any additional information, please let me know.
Now, I assume you don't recall this yourself, correct?
A. I never saw this.
Q. Is this something, if presented to Verifications, would get escalated to Regulatory?
MR. McDONALD: Object to the form.
A. May or may not. Not sure.
Q. At this stage, could -- it says in the subsequent email, Donna writes back, or writes to Tina in your department: We will restrict the account today. I have attached what was sent to Investigator Crawford on December 10th.
So, is this something that typically in your system your department

Page 264

would be informed of?
A. Yes.
Q. All right. When that happens, what happens next within Regulatory? If you were to receive this in Regulatory in 2016, what are the next steps, if any, in the Know Your Customer obligations at Schein?
MR. McDONALD: Object to the form.
A. I don't know specifically. My -- my intent would there be an investigation, understand what the -- Dr. Mason's forms looked like, what he did and what he said and what he lied to us about.
Q. Okay.
A. And to see also whether or not, you know, those 10,000 hydrocodones, whether they came from us alone or whether there were multiple distributors that he was shopping at to meet his needs and to stay under the radar.
Q. And you see that the DEA investigator actually looked to the state

Page 265

reporting system and to the ARCOS transactional data and followed that up with an on-site visit. That's how this issue came to his attention.
A. Correct.
Q. And that's consistent with the Know Your Customer process at Henry Schein, that -- that verifying or turning to those transactional databases and doing on-site visits is part of a Know Your Customer Due Diligence good practice, correct?
MR. McDONALD: Object to the form.
A. Yeah, all areas of Know Your Customer is good business.
Q. Okay. And, we know, at least from this email, that one response was Verifications restricted Dr. Mason's account.
Do you know what the term "restricted" means?
A. He'll no longer be able to buy controlled substances from us.

Page 266

Q. Is it just controlled substances?
A. I believe it's all pharmaceuticals, but he's still able to buy medical devices.
Q. Okay.
A. Dental or medical devices.
Q. Do you know what happened with respect to Dr. Mason's account after this time?
A. I do not.
Q. If you wanted to find that out, where would you go? Where would you go?
A. First I would go to Shaun Abreu to see whether or not there was any follow-up and whether the restriction's still in place, which I would assume it is.
Q. Okay. Is there another level of action which is a suspension, a termination, a disconnect?
A. Restriction's the highest. You're not buying pharmaceuticals from us.
Q. Okay. The first person you

Page 267

would go to in that scheme, in the scheme of Henry Schein, would be Shaun Abreu?
A. Yeah.
Q. In Verifications?
A. That's correct.
Q. Would Sergio Tejeda have any information on this?
A. Yeah, he probably would have it also on the FileMaker Pro database that we have.
Q. At this stage, once something's restricted, is there an obligation in either Verifications or Regulatory to do anything further, other than restrict?
A. We always notify the DEA when we restrict any customer.
Q. Okay. And, in this case, when you were told of it from the DEA, presumably that wasn't a necessary step?
A. Can't say for sure.
Q. Okay.
A. But I would assume that, yes.
Q. Is there a report that's generated weekly, monthly, quarterly, of

Page 268

all accounts that have been restricted?
A. Yes, sir.
Q. And, where is that housed?
A. It's in the SharePoint data.
Q. And, what's that file called?
A. Restricted accounts.
Q. So, there is a database of restricted accounts that are -- I assume it's a searchable database?
MR. McDONALD: Object to the form.
If you know, tell him.
A. Can't say. I don't know.
Q. If you asked Sergio or Shaun to go get me every doctor who has a restricted account in Summit County, Ohio, or in the State of Ohio, do you think that they would be able to generate such a report?
MR. McDONALD: Object to the form.
A. I don't know how long it takes, but I'm pretty sure they could generate that report.

Page 269

Q. The data would be there?
A. Yeah, the data's there.
Q. And it lives electronically --
A. Correct.
Q. -- somewhere?
A. Yes.
Q. And it's called the restricted accounts --
A. Yes.
Q. -- database?
MR. McDONALD: We've been going a while. So why don't we take a break whenever you get to a good spot.
MR. MIGLIORI: Yes. I'm thinking maybe let me do this one document, 'cause I just --
MR. McDONALD: You're so excited about it.
MR. MIGLIORI: No, I'd rather just move on to the next topic at the end of the break instead of being in the middle of one.
But, if you don't mind, just give me one second.

Page 270

And I'm going to claim sickness as my basis for my request.
THE WITNESS: I'm not feeling well either.
MR. MIGLIORI: Excellent response.
Yeah, let's take a break here this way I can fine tune.
THE VIDEOGRAPHER: Okay. Remove the microphones.
The time is 2:19 p.m.
Off the record.
(Recess taken.)
THE VIDEOGRAPHER: Okay. We are back on the record.
The time is 2:33 p.m.
MR. McDONALD: So, as requested, we have visited about your questions regarding the Hyman Phelps report. As we discussed off the record, there is not a final report yet. It is under -- currently under legal review for finalization with Hyman Phelps.
I don't agree at this time that

Page 271

that report is actually discoverable in this case. It was done after the initiation of litigation against my client. But I will let the witness answer questions regarding his knowledge of his review of the draft of the report.
MR. MIGLIORI: I appreciate that.
We'll reserve, subject to what he testifies to and any other thoughts on that, we'll reserve any further argument or objection to it. But I appreciate the courtesy, and hopefully this gets us to where we need.
MR. McDONALD: And you agree that this is not, to the extent it is, we ultimately claim privilege, this is not a blanket waiver of any privilege.
MR. MIGLIORI: Understood. We can proceed with that understanding.
BY MR. MIGLIORI:
Q. So, Mr. Peacock, the question then is you did retain Hyman Phelps in

Page 272

2018 and they did conduct a audit and assessment of some type, and a report, as we understand now, a draft report did result from that.
Did you, in fact, review a draft of that report?
A. I did.
Q. To the best of your understanding, what did that report conclude or find?
A. I think in terms of a general conclusion is that the systems were, you know, pretty robust. There were certain Know Your Customer questions that should be modified, both for better detail from the physician's office and -- let me see what else.
That was the -- that was the main juxt of it, is that the Know Your Customer questions needed to be, you know, tuned a little bit better. And that's about it.
Q. Okay. Did the assessment go into both systems, both the computerized

Page 273

system and the Know Your Customer components?
A. There was issues with the -- in the audit with the suspicious order monitoring system.
Q. Okay.
A. And the reporting of that and how the state reporting and the ARCOS reporting was done.
Q. Okay. And, do you recall what the issues were? Was it overreporting, underreporting?
A. No, I didn't say it was either of those.
I said the audit was actually conducting of that. There was -- I can't recall any specific findings that we were under or overreporting.
Q. Okay.
A. Yep.
Q. So, there were some findings. You just don't recall, as you sit here, what they are with respect to the suspicious order monitoring system?

Page 274

A. Correct. There may have been findings. I don't remember. Recommendations maybe, but it was, yeah.
Q. Okay. On the Know Your Customer side, it's your understanding that there were some recommendations that the due diligence letters have -- request greater information or more detail?
A. Clarity, yes.
Q. Did the outcome of that audit support the continued use of a written due diligence letter as a Know Your Customer process?
Do you know what I mean?
A. There was no recommendation to abandon a letter.
Q. Okay. So, we have -- we know that letters generally are sent from Verifications to doctors if there are questions about pended or suspicious orders. That -- that's one of the first things that the Henry Schein Know Your Customer system does when something gets flagged.

Page 275

Correct?
A. Correct.
Q. A form letter with blanks in it gets sent to the doctor for the doctor to complete and return by mail to Henry Schein for review, correct?
A. For a pended order, correct.
Q. And a pended order in your system is an order that's been triggered by an algorithm to be a deviation from size, frequency and pattern, correct?
A. Yes.
Q. So, we've already discussed that.
But, the -- the concept being if it can't be resolved on its face, one of the first things that the Verifications Team does is send out this form letter to the doctor for answers and clarity on the prescribing need.
Correct?
A. So, that's correct, but we're talking about the Hyman Phelps issues and that was the Know Your Customer kind of

Page 276

diligence questionnaire, not necessarily the letter. So you've drifted to the letter.
Q. Well, and I appreciate it. That's exactly what I was trying to get to, but I was getting there slowly.
So, there is the letter that goes out when there is a due diligence requirement through the suspicious order monitoring program and then there's the onboarding due diligence that is the original letter?
A. Correct.
Q. That's part of it.
Was the Hyman Phelps recommendations, to your recollection, regarding both or regarding the initial onboarding due diligence form?
A. My recollection is primarily on the initial onboarding.
Q. Okay. Any other information or findings that you can recall from this relative to either due diligence or SOMs?
A. No, sir.

Page 277

Q. Okay. And, I don't know if this is a question for you or for your counsel.
But, in terms of it being under review right now, it's under review at Hyman Phelps, or it's under review internally, if you know?
MR. McDONALD: I believe it's under review internally with Henry Schein.
MR. MIGLIORI: Okay. I appreciate that.
We'll deal with any issues that come out of that, but that's helpful to me and I appreciate it.
(Peacock Exhibit 19, letter dated November 9, 2012, Bates No. HSI-MDL-00397293 to 00397294, was marked for identification, as of this date.)
BY MR. MIGLIORI:
Q. Let me show you Exhibit 19.
We'll start wrapping this up.
In November of 2012, you weren't yet at the company, but this is a letter

Page 278

from Sergio Tejeda, who had a title then of director of regulatory operations and compliance.

Did that title stay with him after you became vice-president?

A. Director of regulatory is what he is now, so.

Q. Okay.

A. I think he shortened it up for his business card.

Q. Did somebody have your position before you?

A. Yes.

Q. Who?

A. Not as vice-president.

Gentleman by the name of Michael DiBello.

Q. Okay. And Michael DiBello, his title was what?

A. Director. Or senior director. I'm not sure exactly.

Q. He would have been above Sergio?

A. Correct.

Q. And he was just regulatory, not

Page 279

quality assurance or -- or do you know?

A. Prior to my coming, they were all mixed together.

Q. Okay.

A. So, Regulatory covered quality, regulatory and trade compliance.

Q. Got you.

And, did he leave the company when -- just before you got there, or --

A. Some time before, yeah.

Q. And, were you hired specifically to fill that spot? Was that your understanding, that it was his leaving the company that --

A. Yes.

Q. -- created this vacancy?

A. That's correct.

Q. So, just before your arrival at Henry Schein, Sergio Tejeda wrote this letter to the Ohio State Board of Pharmacy, and it references operations in the State of Ohio.

Have you seen this before?

A. I have not, sir.

Page 280

Q. It simply says that: Henry Schein is a wholesale distributor of prescription drugs licensed to distribute pharmaceuticals in Ohio. Presently Henry Schein operates six distribution centers licensed to sell prescription drugs in Ohio.

Do you know which six distribution centers that would be?

A. Reno, Jacksonville, Denver, Pennsylvania, Indianapolis, and Bastian. And Bastian there's GIV and Insource, so there's two there.

Q. Okay. He represents to the Board of Pharmacy in Ohio: The primary customers for our distribution services are office-based dental and medical practitioners.

That's true in Ohio, correct?

A. Correct.

Q. And that's true nationally, correct?

A. Nationally, yes.

Q. It says: The purpose of this

Page 281

letter is to notify the Ohio Board of Pharmacy of an issue that was recently discovered while conducting a routine internal review of operations.

What are the routine internal reviews of operations at Schein? Is that the auditing process we discussed earlier? Was it the 2012 audit? Or do you know?

A. I do not know what this is stating.

Q. It says: During the course of our internal review, we realize that Henry Schein has been underreporting sales of controlled substances to the Ohio Board of Pharmacy as required by state's prescription monitoring program, PMP. The reports included sales of products that contain tramadol and carisoprodol, but did not include the sale of other controlled substances. We believe the underreporting error was due to misinterpretation and/or miscommunication of the state requirement that happened during the implementation of the computer automated reporting system.

Were you aware that the implementation of the new SOM program, a computerized program that became effective in, I guess, 2010, 2011, was underreporting to the State of Ohio?

A. I was not aware, no.

Q. You understand that to be the Buzzeo -- as it's described here, would it be correct to interpret that to be the Buzzeo system that was put in place as a result of the -- the revamping that was described in the history you gave to, or intended to give to the CEO of the company?

A. I can't say for sure, but it would appear to be.

Q. Okay. It says: To date, Henry Schein has consistently filed the reports on a timely basis as required by the PMP, and prior to the discovery of this issue, Henry Schein was not aware the reports were incomplete. Please be reassured that there was never any intent to avoid or circumvent the company's obligation under

Ohio state law, and as a act of good faith, Henry Schein is providing all controlled substance sales information, which was mistakenly omitted for the previous two years. See enclosures.

So, did you ever become aware that there were two years of data underreported to the Ohio Board of Pharmacy under the state law requirements of reporting for controlled substances?

MR. McDONALD: Object to the form.

A. As I stated previously, this was before my time at the company. I did not become aware.

Q. And, based at least on the content of this letter, what was happening was the computerized system was only reporting two controlled substances, tramadol and carisoprodol, but it wasn't reporting other Schedule II drugs up until this time, November 2, 2012.

Correct?

A. Yes. That's what it says here.

Q. So, for purposes of the Ohio Board of Pharmacy, they would not have any information, assuming this to be correct, they would not have any information of Henry Schein's sales and distribution of hydrocodone, oxycodone, or any other Schedule II or III controlled substances, correct?

MR. McDONALD: Object to the form.

A. Yeah, you're making the assumption what we were selling at the time, sir.

I really don't have knowledge of what we were selling, but it's likely.

Q. Assuming that you were selling hydrocodone and oxycodone prior to November of 2012, if this letter to the Ohio Board of Pharmacy is accurate, Ohio would not know of those sales through the required PMP program, correct?

MR. McDONALD: Object to the form.

A. Yeah, I don't know enough. It

would appear that, you know, there should have been reporting and there were -- the data was provided at the time of this letter.

MR. MIGLIORI: Okay. Let me show you Exhibit Number 20.

(Peacock Exhibit 20, letter dated May 8, 2013, with attachment, was marked for identification, as of this date.)

BY MR. MIGLIORI:

Q. Now, you signed on to -- you signed on to Henry Schein in May of 2013, correct, and you started in July, correct?

A. I started in July, correct.

Q. All right.

A. I accepted the position in May.

Q. All right. In May, Exhibit 20, the cover page is a letter from the State Medical Board of Ohio to a Dr. Brian Heim in Akron, Ohio, and it says: Dr. Heim, Please find enclosed certified copy of the findings, order and journal entry approved and confirmed by the State Medical Board

Page 286

meeting in regular session on May 8th, 2013.

One of the verifications or due diligence resources for Henry Schein would be the state medical licensure boards, correct?

A. Please repeat.

Q. Sure.

The Know Your Customer program at Henry Schein includes looking to, among other things, state medical licensure boards for information, correct?

A. Yes, sir.

Q. It would also include boards of pharmacy in states, correct?

A. That's correct.

MR. McDONALD: Object to the form.

BY MR. MIGLIORI:

Q. All right. On May -- if you turn to, I don't know how to identify it for you other than there's one page that's got an Exhibit 1 sticker on it that's about halfway through the stack. They're

Page 287

not Bates numbered, and I apologize.

A. Is this it up here?

Q. Yeah. So, it looks like this (indicating).

It says Daniel Horrigan May 8th, 2012, 3:10 p.m. in the Court of Common Pleas, County of Summit, Ohio. Indictment type.

A. Yep.

Q. You see that on -- this is filed on May 18th of 2012, an indictment for aggregated -- aggravated -- I'm sorry. Aggravated trafficking in drugs, aggravated trafficking in drugs tampering with evidence. And it relates to Brian D. Heim of Akron, Ohio.

Do you see that?

A. Yes.

Q. All right. When you're -- when Henry Schein does due diligence, does it turn to criminal records, or does it rely on representations of its doctors about criminal activity?

MR. McDONALD: Object to the

Page 288

form.

If you know, tell him.

BY MR. MIGLIORI:

Q. If you understand my question.

A. I do not know whether or not we look at criminal records like this.

Q. I'm going to have you just set that aside for a moment and show you the next document.

(Peacock Exhibit 21, Memorandum in Support of Motion For Summary Judgment in the United States of America versus Brian D. Heim, was marked for identification, as of this date.)

BY MR. MIGLIORI:

Q. The next document is Exhibit 21.

This document is a pleading in an action where the United States Government seeks forfeiture of assets of Dr. Heim because of his activity relevant -- related to controlled substances. I'm going to have you turn to the third page. Page number 3 it gives a

Page 289

brief history of Dr. Heim. It says: Defendant was licensed under the laws of Ohio to practice medicine. Was also registered under - this is a federal statute - by the DEA to dispense controlled substances to the extent permitted by federal law. Defendant has a history of drug violations. In 1998, defendant entered a guilty plea to 24 felony counts of theft of drugs and 21 felony counts of illegal processing of drug documents. His medical licensure was revoked and he was given treatment in lieu of conviction. Defendant's medical license was later reinstated with restrictions and he was put on probation until January of 2005.

My first question is are you aware of Dr. Heim or what Dr. Heim was doing?

A. Never heard of the gentleman before today.

Q. All right. Would you agree with me that in knowing your customer, assuming

Page 290

this is a customer of Henry Schein, that in knowing your customer, those facts that I just read to you from this pleading would be relevant facts?

A. Would they be relevant? Yes.

What I find very disturbing about this is that the DEA would reissue his license. To me that's the most disturbing because that's the first thing that a company will look at, right. So if the DEA hasn't done its due diligence, I have, you know, a hard time understanding how they're reinstating the doctor who's got counts against him and then, you know, we have to go and double check the DEA.

That's what this is -- that's what you're implying, sir.

Q. No, I'm not implying. I'm just reading the facts. And the fact are here. It says the defendant's medical license was reinstated. It doesn't say DEA registration.

A. Okay.

Q. All right. I just want to make

Page 291

sure we're on the same page.

I understand your concern about DEA, but there's no reference to DEA --

A. Okay.

Q. -- registration, other than the initial granting of it.

Do you see that? I don't want to imply anything.

A. No, I got it. I see it.

Q. All right.

A. So it was never restricted?

Q. I don't know.

I'm just asking whether those facts, a criminal history and a loss of medical licensure --

A. Yes.

Q. -- are facts that are relevant to a --

A. Sure. That would be reported.

Q. Okay. I want you to then go and look at the bottom of page 4. The bottom of page 4 says: The inspection and subsequent investigation revealed that defendant purchased 11,500 tablets of

Page 292

hydrocodone on 14 separate dates between August 17th, 2011 and June 5th, 2013 from Henry Schein Inc., a distributor of pharmaceutical drugs.

So, at least for purposes of this question, will you at least accept the purported representation that Henry Schein was a supplier of certain controlled substances to Dr. Heim?

MR. McDONALD: Object to the form.

BY MR. MIGLIORI:

Q. Do you see that in the pleading?

A. I do see that in the pleading.

Q. All right.

Henry Schein provided a summary of these purchases to DEA on July 11th, 2012.

Do you see that?

A. Mm-hm.

Q. Exhibit B Summary of Purchase Records.

And then it actually gives a table of the 11,500 pills - these are

Page 293

based on pills - of hydrocodone in this record, okay. That is the, by invoice, order date, size, total drug strength, that is Henry Schein's information it provided to the DEA, again, on July 11th, 2012.

Do you see that?

A. Yep.

Q. Okay. I'm going to show you Exhibit 22.

MR. McDONALD: Well, and I'll just tell you, state for the record that I don't have any idea if any of this is true or not because your statement that you read earlier said that the sales were between August 17th, 2011 and July 5 of 2013, and that the report was made to DEA on July 11th, 2012. I'll represent to you that's probably impossible to do. That is to provide a report in July of 2012 about sales that were made through June 5th, 2013.

MR. MIGLIORI: Well, we can --

Page 294

MR. McDONALD: Something's wrong with the dates.
MR. MIGLIORI: Yeah. The indictment -- you could reconcile the dates. The date that's wrong is not the one that you think it is, but I appreciate your spoken objection.
MR. McDONALD: There's something wrong with the dates, and I don't know what it is 'cause I've never seen this before either.
MR. MIGLIORI: That's okay.
MR. McDONALD: And I have no idea why it's remotely relevant to this witness.
MR. MIGLIORI: You're a nice person. I'm not going to make a big deal about it, but that's more of an objection than you're supposed to be.
MR. McDONALD: Well, you and I both know otherwise, but that's okay.
MR. MIGLIORI: I'm okay with it.
MR. McDONALD: Thank you.
MR. MIGLIORI: I'll remember to

Page 295

do it when you do it to my client.
MR. McDONALD: Fair enough.
(Peacock Exhibit 22, Customer Service Imaging printout, Bates No. HSI-MDL-00001198 to 00001210, was marked for identification, as of this date.)
BY MR. MIGLIORI:
Q. This is Exhibit Number 22. This is the last document on Dr. Heim, but this is your entire due diligence file for Dr. Heim, as represented to us, okay.
Take your time to go through it.
A. (Perusing document.)
Q. Let me know when you're ready.
A. (Perusing document.)
Okay.
Q. Okay. Now, your counsel raised a question about dates. So I'm going to direct you back to 21 briefly on that page 5. And it's on the screen.
The U.S. Government in a publicly filed pleading said that your company provided a summary of these

Page 296

purchases to DEA on July 11th, 2012. Summary of purchase records. The order dates all predate, if you look underneath that in the table, all predate July of 2012 in the table.
So, the 11,500 pills supplied by Henry Schein to Dr. Heim were all sent between August of 2011 and June of 2012 from Henry Schein to Dr. Heim, and that information was shared by Henry Schein to the DEA on July 11th, 2012. Okay. Just for factual orientation --
A. Clarification, yes.
Q. Okay. If you look at the due diligence file, in particular if you look at the page that ends in '1204. It says on 8/24/12. This is now a month later, after Henry Schein has already provided the DEA with this transactional information of Dr. Heim, it says: On 12 -- 8/24/2012 received completed questionnaire. Placed in bin to be approved FDU. 8/25 gave to Shaun.
Do you see that?

Page 297

A. I do.
Q. If you go to the front page, which is sort of like a overall docket. On August 30th of 2012, more than a month after providing this information to the DEA and now five months after this doctor has been indicted, going back to Exhibit Number 19, it's notated that Henry Schein's due diligence letter is on file. And Shaun Abreu testified already that the pended orders were released and shipped in full.
Is that effective due diligence?
MR. McDONALD: Object to the form.
A. I would have to investigate more to understand what exactly happened here.
It seems like, you know, process is 12. He's looking at testosterone and will continue to notify DEA of orders. That's what the comment is on that date.
Q. If the DEA is -- is telling the truth in its pleading in Exhibit Number 21, Henry Schein, in cooperation

Page 298

with the federal government on an indictment of this doctor, provided the DEA on July 11th of 2012 the transactional information for this doctor for use in their forfeiture proceeding.

Who from Henry Schein would have provided that transactional data to the DEA to prosecute this doctor?

MR. McDONALD: Object to the form.

A. I don't know.

Q. Is that a regulatory affairs?

MR. McDONALD: Object to the form.

A. Potentially a review of customer verifications would likely pull it.

Q. And, so, that information goes to the DEA without Regulatory Affairs being notified or any notation to --

A. No, I didn't say that. I said --

Q. My question.

A. No.

Q. Would -- if that transactional

Page 299

data were requested and provided by DEA to -- requested of Henry Schein to DEA, who would -- who would get notified in Regulatory?

A. Regulatory and --

MR. McDONALD: Hang on. Object to the form.

If you know, tell him.

BY MR. MIGLIORI:

Q. Who in particular and how?

A. At the time, I don't know. I wasn't involved in the company at the time.

Q. Okay. Today who would get notified if the DEA asked?

A. Regulatory and Legal would be informed.

Q. Who -- who in Regulatory would be informed?

A. Either Sergio or the manager position, Frank O'Regan or the new one that's coming.

Q. Okay. So, somebody at Schein shares this information with the DEA to

Page 300

support an indictment in a forfeiture claim on July 11th, 2012.

That, as we saw in Exhibit 19, on May 18th of this year, this doctor has been indicted by the federal government for drug trafficking.

And if you turn to the page ends in '1205 on Exhibit 22, Henry Schein's License Verification Department August 23rd, 2012 is sending him a due diligence verification letter.

Do you see that?

A. I do.

Q. And you'll see if you go through this due diligence letter, there's not even a question about criminal activity; is there?

A. On this form, no.

Q. There's no documentation of a phone call to the doctor, correct, in this entire file?

A. That's correct.

Q. There's no documentation of a phone call to the Ohio Board of Medical

Page 301

Licensure, correct?

A. There's nothing noted.

Q. There's no phone call to the Ohio Board of Pharmacy in this due diligence file, correct?

A. Yes, there's nothing noted.

Q. There is a request for further information which is singularly a letter that's generated to the doctor on August 23rd, 2012. Again, a month after providing the DEA with all of this doctor's controlled substance transactions.

Correct?

MR. McDONALD: Object to the form.

A. Timing's correct.

Q. And, it's possible that this doctor actually answered every one of the due diligence questions honestly and accurately, correct?

A. I have no knowledge whether they did or they didn't.

Q. None of these questions would in

Page 302

any way prompt this doctor to have to admit that his license is being revoked, he's under indictment, he's being investigated for drug-trafficking and evidence tampering, correct? There's nothing in this form that even elicits that information, correct?

A. I'd have to study the document. I mean, if his license was revoked, then he represented that he is a licensed practitioner.

Q. Well, according to the exhibit, the license being revoked, according to the first exhibit I showed you, doesn't happen until May of '18, after going through the whole process.

A. May of '18, okay.

Q. I'm sorry. February of '13. There's a findings on February 13 of 2013.

So, at this point, it's not revoked.

A. Correct.

Q. But he knows he's under indictment, right?

Page 303

A. Yes, he knows he's under indictment.

Q. And, so --

A. Is there a presumption of innocence?

I don't know. I don't know.

Q. Well, let me ask you that.

A. I don't know.

Q. Is that what Henry Schein --

A. No.

Q. -- has built into its system, that you're going to presume a person who's been indicted for a second time on drug charges --

A. No, I misspoke.

I'm sorry.

Q. Okay. So, the reality is is that sending out this letter and returning it and just verifying that it got put in the file is not a robust due diligence system, at least in this case, correct?

A. In this case --

MR. McDONALD: Object to the form.

Page 304

Go ahead.

A. In this case, no.

Q. This is not compliant with the DEA regulations on knowing your customer; is it?

MR. McDONALD: Object to the form.

A. We could have certainly done better.

Q. It's not compliant; is it, sir?

MR. McDONALD: Object to the form. It's legal -- calls for a legal conclusion.

BY MR. MIGLIORI:

Q. You can answer.

A. I wish we did better.

Q. Understood.

But if this were in front of you today, and I'm not trying to be smug, if this were in front of you today, this would not be an acceptable practice in your department of Regulatory Affairs, correct?

A. No, wish that we hadn't had this

Page 305

happen.

MR. MIGLIORI: Why don't we take a break and let me just make sure I've covered everything I wanted to.

THE VIDEOGRAPHER: The time is 3:10 p.m.

Going off the record.

(Recess taken.)

THE VIDEOGRAPHER: The time is 3:13 p.m.

Back on the record.

BY MR. MIGLIORI:

Q. So, before we leave Exhibit 22, which is the due diligence file for Dr. Heim. I'll direct you to the front page of it, but you can look anywhere you want within it. But, as I understand the front page from prior testimony, this is sort of the inventory of what's in the file.

Does that -- is that consistent with how you've seen these files?

A. I'm not usually seeing these files.

Q. Okay. Well, first of all, the

Page 306

names here, the users, are you familiar -- you certainly are -- you're familiar with Shaun Abreu, who's listed on the last entry of August 30th, 2012, correct?
A. Correct.
Q. And he's simply documenting that the -- the letter is on file.
Do you know who P. Hall is?
A. I do not.
Q. Nobody within Regulatory Affairs, correct?
A. No.
None of these are from Regulatory Affairs.
Q. These are all within Verifications, is going to be my question.
A. Correct.
Q. Okay. Nowhere in this entire file produced to us do I see an indication that, even after cooperating with the DEA in providing that information to the DEA, that this account has been restricted.
Would that normally appear on the due diligence file?

Page 307

A. I couldn't say, sir.
Q. Where would that be? That would be in the restricted file that we talked about earlier?
A. It would be in the JD Edwards system.
Q. And, is it -- nobody that's touched this due diligence files, at least from what we can tell on this form, is from Regulatory Affairs, correct?
A. Correct.
Q. But the folks on -- in Verifications could have restricted it -- restricted the account on their own without informing Regulatory?
A. At this time, I don't know, sir.
Q. Okay. We saw in the last example that Tina was informed --
A. Yes.
Q. -- at least of the restriction.
A. That's the process now.
Q. And Tina's in your department, Regulatory?
A. Correct.

Page 308

Q. Is there another file in Regulatory that exists for Regulatory's due diligence of this particular doctor, or any doctor? Is there a separate file?
A. Would be in our FileMaker Pro database. But again, I don't know how far back it went. This is before my time.
Q. Can you tell from looking at this if this is FileMaker Pro?
A. I could tell it's not.
Q. It's not.
So, in FileMaker Pro, there may be a different repository of the due diligence for this doctor?
A. There may be. I don't know exactly how far back they loaded all the data in, so.
Q. All right. But at least on the face of this document, with all that we've seen in terms of the doctor, the conviction, the indictment, nothing in this due diligence file, as it's been given to me from Henry Schein, reflects that this account has been even

Page 309

restricted, correct?
A. I don't see that on here, yes.
Q. And you would agree with me that if any account would be restricted, this would be one?
MR. McDONALD: Object to the form.
A. Looks like justification for restriction, yes.
Q. We talked about Dendrite and their review. This is a historic document, but it relates to this document we've just been talking about.
(Peacock Exhibit 23, Cegedim Dendrite Draft Schein SOM Procedural Review, Bates No. HSI-MDL-00404369 to 00404383, was marked for identification, as of this date.)
BY MR. MIGLIORI:
Q. I'll tell you from the metadata this is from November 2nd of 2009. So this is in that process of revamping the SOM procedures.
I'm going to bring you to the

Page 310

conclusions and recommendations on page 4.
In particular, in 2009, Dendrite, the outside auditing consultant, reported on Henry Schein's system. It says: New accounts are opened without sufficient due diligence, investigations, inquiries.
Would you agree with me that not having any notation on the due diligence file for Dr. Heim about his earlier medical license suspension is a insufficient due diligence?
MR. McDONALD: Object to the form.
A. What was the time frame that he had his license suspended? It was like ten years before?
Q. 1998.
A. 'Til '12. Yeah.
Yes, it's a problem.
Q. It's a problem.
For the most part, new accounts are opened based upon a verification of the customer's DEA number, which is not

Page 311

considered adequate by the DEA.
So, you mentioned that the DEA, I think you said you were upset the DEA reissued his license or registration, or something to that effect.
Were you aware that your consultants provided to Henry Schein information that it's not sufficient to rely on whether or not the company, or the doctor, the customer, has a valid DEA registration for due diligence?
A. I was not aware of this.
Q. So, the mere fact that Dr. Heim had a DEA registration in 2012 while under indictment isn't in and of itself enough, according to your consultant, to rely upon for your obligations to know your customer, correct?
MR. McDONALD: Object to the form.
A. Just the license itself, it would appear no.
Q. Okay. It goes on to say: Correspondence regarding the prospective

Page 312

customer's previous history of using controlled substances, office practice rules, and general practice expectations should be completed prior to opening a new account. A compliance agreement form should be developed and included in the new account opening process.
In fact, your outside consultant back in 2009 told you, told your company, that the previous history of using controlled substances needs to be further investigated before opening the account, correct?
MR. McDONALD: Object to the form.
A. Yes. This is the recommendation.
Q. It says: The MedPro inquiry should be expanded for all controlled substance accounts and not just for the limited number of states that require background checks.
Do you see that?
A. I can read this.

Page 313

Q. MedPro is an inquiry online for just this reason, right? That is to look into background checks of doctors before they become customers of Henry Schein, correct?
MR. McDONALD: Object to the form.
A. Just background checks?
Q. Would MedPro --
MR. MIGLIORI: Strike that.
Q. Was Henry Schein using MedPro for purposes of background checks on doctors where it was required in certain states?
MR. McDONALD: Object to the form.
A. I wasn't with the company. I can't say, sir.
Q. Do you know what MedPro is?
A. I do.
Q. What is it?
A. It's a online database that has information on all physicians' licenses.
Q. Okay. Is it just whether or not

Page 314

they have a license, or is it on the history and background of that physician?
A. There's more than just the license.
Q. And it would include any kind of license revocations historically, correct?
MR. McDONALD: Object to the form.
A. Can't answer it, sir. I don't know the details of all that it will provide.
Q. But it -- you know it's more than just a license verification process?
A. Yes.
Q. And, as of this time, Dendrite is telling Henry Schein that you need to use it in all states, not just where it's mandatory. That's what their recommendation is here, correct?
A. That is correct.
Q. It says: Henry Schein has conducted some on-site investigations for prospective customers. However, the criteria for the level of due diligence

Page 315

has not been documented in any standard operating procedure or memorandum.
Now, I think we said this before, but if it's not written, it doesn't exist in Regulatory Affairs, correct?
A. That's a premise, yes. They're talking about the criteria for what the due diligence is. So, you know, yes, there's no specific checklist.
Q. So, if a Verifications employee wants to go find out what the criteria is, there is no written place to go find it, as of this time, according to your --
A. I have no knowledge whether there was or there wasn't and what was represented or not. I really -- it says that they didn't have it.
Q. Okay. So, according at least to your -- your paid consultant advising Henry Schein about its systems, you would agree with the company, with -- with den -- with Dendrite that if there's going to be a level of due diligence criteria,

Page 316

it is important that that criteria be documented somewhere?
A. And --
MR. McDONALD: Hang on.
BY MR. MIGLIORI:
Q. Correct?
MR. McDONALD: Object to the form. Object to the form.
BY MR. MIGLIORI:
Q. Correct?
Go ahead.
A. There have been improvements made to insure that there is this type of checklist.
Q. I understand that. And I appreciate that over time Henry Schein has tried to make improvements.
My question simply is this particular recommendation, if it's true that Henry Schein had no written standard operating procedure or memorandum defining the criteria, that that is a -- a recommendation that you would support? That is, in order to have an effective

Page 317

program in place, it has to be documented and understood, correct?
A. 100 percent.
Q. The last point here on the same page: Lower level staff is actively involved in clearing pended orders. Pended orders should be cleared by a management official.
Again, assuming this was true in 2009 when your paid consultant advised Schein of this, that's an accurate statement, correct?
MR. McDONALD: Object to the form.
A. I don't know whether it was accurate or not. I wasn't with the company at the time.
Q. Well, as a vice-president of Regulatory Affairs now, you would agree with the statement that cleared orders, releasing controlled substances to doctors, is something that should have a clearance by a management official, correct?

Page 318

MR. McDONALD: Object to the form.
A. Depends on training and what the management official is, right. So, yes. Technically.
Q. Certainly that person should be well-trained in issues surrounding controlled substances, correct? No matter the status of that person?
A. Yes. Training should be involved in this.
Q. And here, at least according to this document, the outside consultant, Cegedim Dendrite, is saying that the system in place at the time doesn't always have a management official clearing pended orders, correct?
MR. McDONALD: Object to the form; the document speaks for itself.
A. It's hard to interpret whether or not any -- when, how often a management official may be involved.
Q. 2009 the consultant told Henry Schein that Henry Schein has clearly

Page 319

invested a great deal of time and energy in developing an adequate SOM system. However, the responsibilities of the customer service department, the Verifications Department, and the Regulatory Department appear to be poorly defined and reliant, to some extent, upon the judgment of individual employees regarding what types of situations should be referred to management for approval or forwarded to Regulatory for investigation.
Did you find that to be true when you got there in 2013?
A. That we've been investing a great deal of time and energy in developing an adequate system?
Q. We'll start with that one.
Did you feel that?
A. I felt, yes, we were making --
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. Go ahead. How about the rest of it?

Page 320

MR. MIGLIORI: You objected to his question? He changed the question.
MR. McDONALD: You ask the questions. He answers the questions.
MR. MIGLIORI: All right. Fair enough.
MR. McDONALD: How about we do that?
MR. MIGLIORI: How about the rest of us do it?
BY MR. MIGLIORI:
Q. The relationship between those departments, even as we speak through today, seems poorly defined?
A. I think it's much clearer than when I joined the company. So I think there's much more interactions.
I think the FileMaker Pro's database has allowed for much more clarity in terms of the -- the types of reviews and the extent of the reviews and the ability to communicate online with those things.

Page 321

Q. And to be clear, that was effectuated in 2017?
A. Correct.
Q. All right.
MR. MIGLIORI: Last sticker.
(Peacock Exhibit 24, email chain ending February 27, 2015, Bates No. HSE-MDL-0039634, was marked for identification, as of this date.)
BY MR. MIGLIORI:
Q. Now, we talked about Beverly Butcher. She was the woman hired who had training as a pharmacy technician.
Is that correct?
A. Yes.
Q. And she and Tina Steffanie-Oak have an email exchange which in early iterations includes Sergio and a Kathleen Reid.
Who's Kathleen Reid?
A. She's also on the team. She was the administrative person, schedules, meetings, things like that.
Q. Okay. And by "the team," you

Page 322

mean the DEA Audit Team?
A. Correct.
Q. All right. So, in this email exchange, starting from the bottom, Beverly Butcher on your DEA Internal Compliance Team writes to Tina Steffanie-Oak, also on that team, on February 27th, 2015.
At this point, you're the vice-president of Regulatory Affairs, among other things, correct?
A. That's correct.
Q. Beverly writes: Site visit on Dr. Spendal has been completed. Dr. Spendal is restricted from the purchase of controlled substances. The report has been placed on the M: drive. Thank you.
So, it would appear for Dr. Spendal that Beverly Butcher is documenting the restriction, or the prohibition of further controlled substance sales, to Dr. Spendal as of this date, February 27th, 2015.
Correct?

Page 323

A. She's communicating it to the Customer Service Team and some of the Regulatory Team, correct.
Q. And it says "the report."
What kind of report are we -- is this a due diligence report? What kind of report are we talking about?
A. It would be the actual site visit report.
Q. Site visit.
And the M: drive, is that the shared -- or, what is the M: drive?
A. Yeah, it's the share drive.
Q. And that's on the -- I get all the acronyms mixed up.
A. It's just on the general --
Q. The JDE?
A. It's not on the JDE. It just resides on our Internet.
Q. So all site reports exist on that M: drive --
A. Correct.
Q. -- today even?
A. Correct.

Page 324

Q. And, so, any site reports for any doctor in Summit County, Ohio would exist there too, correct?
A. Should, yes.
Q. Steffanie wrote back to Kathleen Reid, who you said was the administrative person on that committee?
A. Correct.
Q. (Reading) I just found out from Shaun - Abreu I assume - that Verifications accidentally released his hydrocodone order on February 23rd. Please do not send a suspicious order letter to the DEA. Thanks.
Were you made aware of this?
A. I was not.
Q. Is that inconsistent with the procedures for Henry Schein in its reporting obligations to the DEA?
MR. McDONALD: Object to the form.
A. Yeah, I'm -- I'd have to do more investigation because, you know, they said it was released on 2/23. Beverly sends

Page 325

her email on -- on February 27th.
Q. So, while pended, it was released, before -- before being -- before the site visit?
A. Before the site visit it was released, right.
Q. So, while under investigation, Verifications accidentally, to use their terms, accidentally released the order?
A. Correct.
Q. Without awaiting the outcome of the -- of the site visit?
A. Correct.
Q. And the site visit apparently produced enough information to completely restrict that doctor from purchasing from Henry Schein controlled substances, correct?
A. Yes.
Q. And, so, as you told me earlier today when we were talking about the other restricted account, you told me that the next step was if you restricted an account, you notified the DEA.

Do you recall telling me that?
A. I did.
Q. All right. In this instance, a restricted account with an order that was released prematurely and accidentally, was being told -- Tina Steffanie-Oak was instructing the administrative person on the DEA Compliance Team to not send a suspicious order letter to the DEA.
That is not consistent with Henry Schein's policies and procedures for restricted accounts, correct?
A. Yes. I can't -- I can't defend why this had happened. It does not follow our --
Q. This should not have happened?
A. -- policy.
MR. McDONALD: Well, object to the form.
BY MR. MIGLIORI:
Q. This should not have happened, correct?
MR. McDONALD: Object to the form.

A. Doesn't follow our policies.
MR. MIGLIORI: All right. I really appreciate your time.
I appreciate you tolerating my weak voice.
THE WITNESS: No worries.
MR. MIGLIORI: But I do appreciate you being here. I don't have anything else.
MR. McDONALD: You pass the witness?
I'll reserve my questions.
MR. MIGLIORI: Okay.
MR. ASFENDIS: I'm here and counsel for Cardinal tells me he has nothing either.
THE VIDEOGRAPHER: All right. Stand by, please.
This marks the end of today's deposition.
The time is 3:34 p.m.
Off the record.
(Deposition adjourned at approximately 3:34 p.m.)

A C K N O W L E D G M E N T

STATE OF)
:ss
COUNTY OF)

I, JEFFREY S. PEACOCK, hereby certify that I have read the transcript of my testimony taken under oath in my deposition of January 30, 2019; that the transcript is a true and complete record of my testimony, and that the answers on the record as given by me are true and correct.

_____
JEFFREY S. PEACOCK

Signed and subscribed to before me this _____ day of _____, 2019.

_____
Notary Public, State of

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C E R T I F I C A T E

STATE OF NEW YORK
COUNTY OF NEW YORK

I, Marie Foley, RMR, CRR, a Certified Realtime Reporter and Notary Public within and for the State of New York, do hereby certify:

THAT JEFFREY S. PEACOCK, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by the witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of February, 2019.

_____

MARIE FOLEY, RMR, CRR

LAWYER'S NOTES

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